

Public Utilities

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Our Newspapers— Are They Public Utilities?

Assuming that journalism is affected with a public interest, what would be gained or lost by regulation of the press?

By T. E. SHEARER

NEWSPAPERS are not classified as public utilities today—but no one can say that they will not be tomorrow. When one considers the remarkable extension of regulatory control in the past few years, there is no reason to believe that newspapers and news agencies will remain an exception. Several recent developments are indicative of the kind of control to which newspapers may be subjected.

In 1930 and again in 1931, a bill was introduced in the New York legislature giving the public service commission power to regulate news agencies. Early last fall the annual convention of the International Typo-

graphical Union adopted a resolution proposing that news agencies be declared public utilities, and deploring the increasing concentration in the newspaper field. Senator Dill, co-author of the Federal radio legislation, in a speech before the National Association of Broadcasters on September 17th, said:

Either the press associations must change the terms of the agreement so radio stations can give their listeners up-to-the-minute news and for longer periods of time, or radio stations will find or create means and methods of securing news entirely independent of the press associations.

Any press association created in the manner suggested by Senator Dill would be subjected to the same meas-

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ure of public utility control as the radio.

OF course this move to extend the range of public utility regulation so as to include newspapers and news-gathering agencies is limited to a few isolated instances at present. But the movement is not insignificant on that account! A little investigation will show that most of the major political developments have had the same small beginnings. Merely because the courts in 1931 or even in 1933 have declared that newspapers are not public utilities is not conclusive evidence. One must reckon with the courts and legislatures of 1935, and 1936, and 1937. We must also recognize the faith which many people have in the words "public utility." They believe that any strained relations between a business and its public can at once be adjusted if only the business be classified as a utility. Of course such a notion is false, but that faith in regulation remains. It is something of that blind faith which underlies the present demand for the regulation of newspapers.

Although we cannot safely predict what the legislatures or courts will do in future years, we can seek out the cause for the dissatisfaction with newspapers. Upon the basis of this information we will be able to predict the possible strength of the demand for regulation. We can evaluate the effects of the proposed regulation, and, if they appear to be undesirable, we may even be able to prevent the movement from gaining strength. Certainly, in this latter case, it is essential that we know why such regulation is being sought.

IN the first place, it is significant that the demand for regulation is not based upon a dissatisfaction with the prices charged. The price for which newspapers are sold to the public, in most cases, is below the cost of production, and, the larger the newspaper, the more certain this is to be true. Advertising makes it possible to sell the article at a low cost, and to this, of course, the public raises no objection. Furthermore, the advertisers are reasonably well satisfied since they get value received.

Secondly, the element of discrimination—so often a disturbing factor in the relationship between a utility and its public—is not involved in respect to newspapers. Purchasers are treated alike and virtually no reputable advertiser is refused space if he can pay the price. The only advertisers whose business is refused—and around which refusal a charge of discrimination could be built—are those advertisers whose copy is fraudulent, obscene, or dishonest. These persons have little or no standing with the public and no legislator would support a bill which was grounded on the claims of such advertisers.

THE primary charge for which the newspapers stand accused is, strangely enough, monopoly. At first thought such an idea seems absurd. With all the newspapers published in the United States, it is hardly believable that a monopoly exists. The fact remains, nevertheless, that this is the charge. It is the reason why a public utility classification for newspapers is demanded.

In spite of the apparent absurdity of the charge, a closer analysis reveals

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some logic in it. There are, it is true, a great many newspapers published in the United States; but every reader is very much limited in the choice of newspapers which he may profitably read. One may live in New York and still read a Chicago newspaper. One may do that but, for obvious reasons, one doesn't. By circumstances it happens that the New Yorker is compelled to read a New York paper. That, however, still leaves *him* a large number of newspapers from which to choose. On the other hand, a great many citizens live in cities where only one daily newspaper is printed, and many others live in towns and villages with no daily paper. By those circumstances, the persons living outside the larger cities are compelled to read *the* available newspaper. Consider the number of people without a reasonable choice as to which paper they will read, and the charge of monopoly becomes understandable.

IT must be remembered that the business of publishing daily newspapers has been changing rapidly in the past few years. The public demands a wide range of news and features, and it requires a large capital investment in plant and equipment to produce a newspaper which will satisfy that demand.

The number of persons or corporations with a sufficiently large

amount of capital to produce a profitable newspaper is limited. The public demand is for news when it is news; and it costs money to satisfy that demand. The expense of maintaining the three major news-gathering agencies is reliably reported to be in the neighborhood of \$25,000,000. That alone explains why more world-wide agencies are not established. The cost, however, is not the only factor to be reckoned with. There is the demand of the public for well-known writers, and the limited number of such makes it inevitable that certain newspapers employing these writers will tend to eliminate other papers with writers who attract less attention.

Competition in the daily newspaper field is declining, but when one considers the cost involved, that decline is understandable.

ALL of these foregoing facts, it must be admitted, do tend to substantiate and to explain the charge of monopoly which has been leveled against the newspapers. To put it in another way, these facts explain why competition is declining. A certain amount of concentration in the field has already taken place. One cannot state the fact that there are only *three* major news-gathering agencies without admitting that competition is definitely limited.



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Of course no one claims that an absolute monopoly has been established. An absolute monopoly, or even anything approaching it, in any field is rare. No one maintains that any giant octopus has a stranglehold on the newspapers of the United States.

The violent partisanship which has been demonstrated in the current comments on the "New Deal" is clear evidence that no one organization or group controls the press. There have been enough consolidations, however, to justify one's becoming a bit apprehensive, especially if one lives in a city where only one of several newspapers remains. Even in New York city it is becoming increasingly difficult for all of the existing newspapers to continue, and it is generally known that several of those which still exist are regularly losing money for their owners. In the end there will be more consolidations.

CONSOLIDATIONS, of course, do not always mean a dangerous monopoly; but they do represent a dangerous tendency. And regulation is usually predicated upon a tendency towards monopoly, rather than its actual establishment. It is that *tendency* which has prompted the demand for the classification of newspapers and news-gathering agencies as public utilities. But why, it may be asked, should they be regulated in that particular manner. Do they really possess any of the characteristics of the other public utilities?

In one respect, at least, newspapers are similar to the utilities. Their publication requires a large investment which makes it difficult to insure the existence of a large amount

of "spot" competition. But even this similarity is limited, for the purpose of regulation is not the same. In the case of other utilities as gas, water, and light companies, regulation is imposed to protect the public from high rates which might result from the absence of competition. As for newspapers, the public is not concerned about the protection from exorbitant costs. Advertising regulates that. The effect of monopoly in the newspaper field is much different than its effect in the established public utility field.

REGULATION of newspapers is not proposed to protect the public from price abuses; it is proposed to preserve inviolate the sources of public information. The evils of a semi-monopolistic control of the public's informational sources are obvious; and, in the face of so much governmental censorship abroad, they are very real evils. There are almost no limits to the powers of those who control a country's sources of information; and these powers may be exercised by a private monopoly as well as by a government. The right to uncontrolled news, then, is a right for which the public may well demand protection. Certainly it needs protection if, as I have shown, there is a tendency toward concentration in the newspaper field. The question is, how can it get that protection? Will such protection be assured if newspapers and news-gathering agencies are classified as public utilities? It does not seem that it would.

In the first place, the principle of public utility control is to *protect* monopoly—protect and regulate it.

The Monopoly and Censorship Dangers

" . . . as between the two alternatives, an uncontrolled press which has a tendency toward private monopoly, and a controlled press which has a tendency toward governmental censorship, the former is much to be preferred. A privately controlled press can be broken by other private agencies of which there are many."



The demand in the newspaper field is to prevent further concentration. These principles are directly opposed, and, obviously, a different technique is necessary. An administrative agency or a system of law which has been developed to protect monopolies is hardly applicable to the problem of regulating a business in such a manner as to break up or prevent monopoly.

IN the second place, the public has no quarrel with newspapers on the grounds of price or service, and these are the most important elements in the regulation of other utilities. What the public wants in the newspaper field is protection from an arbitrary control of information.

Why expect a public service commission which has been concerned primarily with rate structures to function satisfactorily in preventing private censorship? Of course, the experience which the commissions have had in supervising and inspecting the financial organizations of utilities would stand them in good stead in understanding why and how newspaper consolidations have taken place. But if, as suggested, consolidations have taken place because of the pres-

sure of economic circumstances, what can a utility commission do about it? A mere dissolution of the consolidated company would not be enough if the excessive cost of competition was at the root of the difficulty.

The need is for some kind of supervision to see that the power of the press is not abused. Supervision of this sort is of the most delicate nature, and it calls for such abstract judgment that it is hardly a proper task for an agency, such as a public service commission, which has been established to handle the concrete data which is involved in rate cases. One has only to read the reports of a public service commission to realize that their technique would be useless in such a situation.

THE point cannot be denied that the purpose of regulation in the case of newspapers and of other utilities is not the same. It could be expected that any attempt to regulate the newspapers as public utilities would be of no great benefit, if not positively harmful. How this vital agency of public information can be kept free from improper control by monopolistic groups is hardly within the province of this article. It is

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enough to point out here that regulation as a public utility is not the proper method.

We may inquire, however, as to the possible results of such control if it were actually imposed upon newspapers. Such results would probably not be as good or as bad as the opposing sides would expect. Those who advocated such control would be sure to be disappointed by the small amount which would be accomplished; and the press, without doubt, would be surprised at the limited amount of actual interference.

Since the major reason for newspaper consolidations is the pressure of economic circumstances, there would be little that the utility commission could do to prevent further concentration.

As for the argument of the newspapers that the "freedom of the press" would be endangered, they would not have a great deal to fear. At least, one may conclude such from the experience we have already had with such governmental control.

AFTER all, governmental control of informational sources is not entirely problematical in the United States. We have an example of such control now in operation. Regulation of the radio broadcasting industry is an analogous situation since the radio, as well as the press, is a purveyor of public information.

Because of the limited wave lengths available, some method had to be devised to determine which radio stations should be allowed to use these wave lengths. The radio was established as a facility in which there was a "public interest," and the Radio

Commission¹ was entrusted with the task of insuring the public that its interest would be properly protected. The results in this field are somewhat indicative of what would be the results of government control of the press.

In the first place, while there have been a few isolated cries of "censorship," these charges can hardly be substantiated. The Radio Act specifically forbids the commission to exercise any censorship over the programs which are broadcast. Of course, the commission does have the power to refuse a license to a station and, by use of this power, it is able to approve or disapprove of certain types of programs.

THE standard used by the Radio Commission in exercising its authority has been to measure the program by the "public interest." They have insisted (and their decisions indicate that their practice accords with their statements) that the public demand determines what stations will be allotted the desirable wave lengths and hours. In one case, for instance, the commission reduced the time for a station whose excessive advertising indicated undesirable programs. When, however, the public in the particular area registered their disapproval of the reduction, the station's time was restored.

In another case, the decision of which was approved by the United States Supreme Court,² the commission gave careful consideration to the

¹ Their power has since been transferred to the Communications Commission.

² Federal Radio Commission v. Nelson Bros. Bond & Mortg. Co. (1933) 289 U. S. 266, P.U.R.1933D, 465.

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needs of the local area served by the station. The successful (of two) applicants for the desired hours had adapted its programs to the people in the territory. They carried no national network programs, but did carry a variety of foreign programs adapted to the various foreign groups in the area. Safety talks, children's programs, citizenship programs, and a variety of religious programs were deciding factors, as compared with the programs of national interest which were carried by the competing station. The public interest, in this case, was peculiar and the station which served that interest more satisfactorily was awarded the wave length. This case, as one receiving the approval of the United States Supreme Court, is indicative of the procedure adopted by the commission in other cases.

THESE examples of governmental control of the radio in the United States are hardly evidences of censorship. In most cases the charges of censorship have come from stations which have been denied time on the air. Undoubtedly, some injustices have been done, but, in the main, the public interest has been considered paramount.

This example does not indicate that, if the press were subjected to government control, they would be subjected to any arbitrary censoring author-

ity. In fact, in England where the radio is controlled absolutely by the government, very little censorship has resulted. This English precedent is not offered as a precedent for the United States, but it does indicate that even absolute government control need not necessarily result in censorship.

The radio, then, as the closest example of what government control of the press would mean in the United States, does not indicate that the newspapers need have any great fears about the result of their possible control as public utilities. Furthermore, no one is advocating for newspapers anything like the extent of control which is exercised over the radio.

ON the other hand, what does the present control over the radio indicate with respect to purpose of government control of the newspapers? Is there any indication that the desired results would be accomplished? The conclusion is quite to the contrary. Remembering that the reason for urging control of the newspapers is to combat the tendency toward consolidation, we find the exact opposite being fostered by the present control of the radio. The stronger the station, the more likely it is that the programs will be such as to entitle it to preferred wave lengths and hours. Strength, which means a certain amount of consolidation, is actually developed by the gov-



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ernment control. The general conclusion that we can draw from this analogous situation of the radio is that public utility control of the press would not necessarily endanger the "freedom of the press," nor would it be likely to result in achieving any of the results for which this control of the press would be imposed.

The attempt to impose the traditional public utility classification on the newspapers would be doomed to certain failure. As suggested, it is rather difficult to prevent further consolidation since it springs from economic necessity. Furthermore, regulation of newspapers as though they were public utilities is not likely to reduce the consolidation.

AFTER all, the traditional purpose of public utility regulation is to protect monopoly. On the other hand, if such regulation should be attempted the press need not be greatly alarmed about the possible results. Control of the radio indicates that the degree of censorship imposed would be only very slight.

However, as between the two alternatives, an uncontrolled press which has a tendency toward private monopoly, and a controlled press which has a tendency toward governmental censorship, the former is much to be preferred. A privately controlled press can be broken by other private agencies of which there are many. Furthermore, even if it is difficult now to establish a large metropolitan daily, small and influential newspapers can

be established. These could be used to break the hold of a private monopoly. Nothing can break the control of a government monopoly except a revolution. As between the two, certainly there is little choice.

The arguments against the classification of newspapers and news-gathering agencies as public utilities are no assurance that such control will not be attempted. Nor, if it is attempted, does it necessarily follow that we would have governmental censorship. The probable result is that such regulation would not accomplish the purpose for which it was designed, and little or no censorship would result. Such a conclusion of negative results, however, does not make it entirely immaterial as to whether or not such control is attempted.

BECAUSE of the inherent nature and character of public utility regulation, only the slightest beneficial results could be expected, and there is always the possibility that such an attempt at regulation might lead to some sort of governmental censorship. The chances are that it would not, but since no benefits would result from such control, why risk the chance that the press in the United States would be subjected to anything like the rigid governmental censorship of a Germany or any Italy?

There is nothing to be gained by classifying newspapers as public utilities, and there is an inherent danger from such a course which can, and should be, avoided.

Q "It is essential that you should know how long this (New Deal) program is to last and what it is for. You will run great risks if the program is long and indefinite."

—JOSIAH STAMP,
British Economist.



Power Commission Goes Boom

Its fear of war leads it to some surprising conclusions as to lack of capacity of electric plants

By J. A. LIVINGSTON

EVERYBODY loves an optimist. When Charles M. Schwab declares that "conditions are fundamentally sound," we may smile a little bit, but we like him for it. It's a constitutional matter. Mr. Schwab has glands that make him look upon the cheery side of things.* Mr. Schwab's optimism is natural. It is not forced. It is not whistling in the dark. And most emphatically, it is not the type of optimism recently displayed by the Federal Power Commission when the commission predicted a power boom.

In a report replete with statistics, the Federal Power Commission came to the conclusion that the electric power and light industry had insufficient capacity; that the country faced an unmanageable demand for electricity; that new plants with generating facilities aggregating 3,000,000 to 4,000,-

000 kilowatts were "imperative." The day this display of optimism appeared in the daily papers was April 1st, which may or may not be significant.

What the commission appeared to fear most was war. If, said the commission, business activity returns to "normal," and if the country is engaged in a conflict, then we will find ourselves short of juice. Which is very much like saying, if we had ham and if we had eggs, then we could have breakfast.

THERE is no use arguing that in case of war we would probably find ourselves short of electric power. That goes also for coal, sugar, wheat, cotton, copper, steel, and all other things that combine to provide food, clothing, and shelter. In war time, tremendous demands are made upon a nation's productive facilities. Nations seldom are prepared for the vast requirements of a conflict. And, of course, if we want to gear our productive facilities to a gargantuan war, then we do need more generating ca-

* On March 28th, arriving from Europe, Mr. Schwab startled his friends with the gloomy pronouncement that the country had "gone back." He corrected this, however, on April 9th, at the Bethlehem Steel stockholders' meeting, saying: "I am enthusiastic and optimistic regarding the industrial future."

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capacity, and more chemical plants, more steel mills and so along.

But private business cannot operate on the basis of abnormal demand. No producer can afford to build a factory based on wartime expectancy. That would mean a waste of stockholders' money in idle plants which pay taxes, depreciate, and yield no return. It just doesn't make sense. Surely, the public utility companies cannot be asked to engage in extensive construction just because Hitler happened around April 1st to be injecting statesmen of Europe with a serum of jitters.

As for the government, it hardly seems meet for it to prepare for war by building power plants to provide capacity in the emergency. We managed in the World War to get along, under pressure it is true, and it is likely that we will manage in the next war—if there is one (and let us hope not).

FURTHERMORE, it is doubtful if, on a competitive basis, other nations will be able to amass productive powers to participate in a long-drawn-out battle as well as the United States. Probably we have the best establishment for production in the world, and that goes for electric power as well as for steel, raw materials, and finished products.

If need be, many an abandoned steam hydroelectric generating plant could be mustered into service in war time. It would be costly, but costs don't matter in such an exigency. Further, it probably would be far less costly than overbuilding an already full and sufficient power industry.

The power commission exhibits

great fear of an electric shortage once business returns to "normal." Now it would be nice to know what the commission means. Lacking an official definition, we turn to an academic one. *Webster's New International Dictionary* defines "normal" as follows:

Pertaining or conforming to a more or less permanent standard, from which, if the individual phenomenon deviate from either side, such deviations are to be regarded as self-corrective.

IT is hard to conceive the electric power and light industry as "normal." It has been an industry of rapid growth. Inconsequential in 1900, today it is one of the largest in the United States. During that period of thirty-five years, we had one war—the World War. That war stimulated the industrial establishment of the United States. To many, the enormity of that war had a profound influence upon the depression. It caused the nation to overbuild. And, after 1929, the results were manifested in declining consumption because of strapped purchasing power and slipping production, simply because private business does not produce in order not to sell. Probably no year thus far in the Twentieth Century can be construed as "normal" for the electric industry.

But let us give the power commission the benefit of all doubt. Let us take 1929 as a normal year for the electric power and light industry. Let us assume that the industry was not over-built when prosperity was at its height. Then what do the statistics show?

The best week we ever had in the electric light industry was the week ended December 21, 1929,—just be-

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fore Christmas when stores are open late and business generally is booming. In that week, the industry sold 1,860,021,000 kilowatt hours. And at that time, the installed capacity of generating plants was 29,558,637 kilowatts. Plants were operating at 37.5 per cent of theoretical maximum capacity, which was a pretty good rate of operation.

Now take the nearest comparable week—the seven days ended December 22, 1934. The industry turned out 1,787,936,000 kilowatt hours; and capacity was 33,260,000 kilowatts. Thus, plants were operating at only 32 per cent of theoretical maximum capacity. That would indicate a good margin of capacity to spare—if 1929 is considered normal.

Of course, the power commission may be proceeding on the theory that the United States will grow at a compounding rate, like money left in the savings bank. On that basis, presumably, 1929 was "normal," but 1930, 1931, 1932, 1933, and 1934 were subnormal. And the country is bound to make up that lag in the near future. That may prove to be true. But at present it appears to be wish-thinking. Even if it is not wish-thinking, the power industry appears to be prepared. Since the "crash" of 1929, a great deal of money has been spent on new construction, viz.:

Year	Amount (in Millions)
1929	\$853
1930	919
1931	596
1932	285
1933	129
1934	100*

* Estimated.

Probably, if the industry had been left to its own devices, 1930 would not have been the heaviest construction year in public utility history. But then President Herbert Hoover, in his efforts to nip depression in the bud, called on the public utility companies to continue with their construction projects. They did.

THE generating capacity of the industry increased about two billion kilowatts from 1929 to 1930 and another two billion from 1931 to 1932. Unfinished and projected construction work was carried on into 1931. Then came retrenchment. Companies ceased building: (1) because they appeared to be over-built in relation to near-term prospective demand; (2) because capital was not obtainable at attractive terms; (3) because it seemed desirable to conserve working capital.

And in 1933, installed generating capacity showed a net decrease for the first time in the history of the public utility industry in the United States. Companies had so much capacity in relation to conceivable requirements that they retired more plant than



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they installed. That trend continued in 1934, which hardly sustains the power commission's thesis. Here we had the men who were actually engaged in producing and selling power retiring facilities. They were the persons concerned with electricity in a practical way. Presumably they had (and have) their fingers on the business pulse. They know what business wants and will need. If they see fit to retire generating capacity, the presumption is we have enough. They ought to know what they are doing.

An impertinent but interesting fact supports this point. General Electric Company in one month retired about \$50,000,000 in securities in order to cut charges prior to the common stock. The saving will amount to about 8 cents a share. In retiring these capital obligations, General Electric consumed about one third of its liquid assets, reducing working funds to about \$100,000,000, the lowest in many years. Surely, General Electric, as the leader in the electrical equipment industry, would not curtail its working capital if it expected a boom in the power equipment business.

ON a statistical basis, with a dash of sophistry, an awfully good case can be concocted to show that the electric power and light industry is not overcapacitated; in fact to show that it is undercapacitated.

Since the first of the year, power consumption has increased nicely, week by week, until in the middle of March, electric output actually exceeded the best corresponding week this country has had—1930. That implied definitely and inescapably that power requirements of the country were

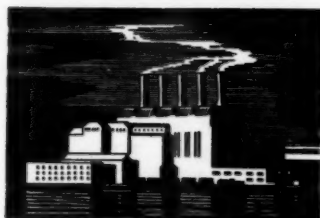
greater than ever before. And with general business running considerably below what it was in 1929 and 1930, it might seem a fair inference that once business returns to normal, demands for electricity would tax every horsepower of generating capacity we have. Unfortunately, analysis does not sustain such a view.

And the interesting feature of the power commission's report is that the expectancy for increase is largely in the "desirable" load category. Here are the commission's figures of contemplated expansion in annual demand:

<i>Classification</i>	<i>1929</i> <i>(000,000 omitted)</i>	<i>Future</i>
Farm	1,503	2,069
Residential and domestic ..	7,957	13,093
Small light and power ..	10,636	13,014
Large light and power ..	40,255	43,800
Municipal street lighting ..	1,556	2,335
Municipal light and power ..	1,443	1,966
Street and interurban railways ..	4,833	4,265
Electrified steam railways ..	520	1,390
Miscellaneous	2,730	3,415
Total	71,433	85,347

THE increase is 19.5 per cent from 1929. But we already have increased capacity 12.5 per cent since 1929, and if need be, present generating facilities could produce more than 100 billion kilowatt hours a year.

We have 33.2 million kilowatts of generating capacity. Present plant is considerably improved over 1929, as the result of construction in the last five years. It could operate efficiently at 40 per cent of theoretical maximum. That would mean 2,234,000,000 kilowatt hours per week, or 20 per cent more than the best week in the history of the industry—the week ended December 21, 1929, when output was 1,860,000,000 kilowatt hours. With a potential output of 2.2 bil-



Government Plants in Surplus Power Areas

"NATURALLY, not all parts of the country are amply provided for. Some sections could use increased capacity. Others are overcapacitated. And in this connection it is noteworthy that government construction of hydroelectric generating stations appears to have been in those areas which have more power than they can use for years to come."

lion kilowatt hours per week, annual production would be potentially 110 billion kilowatt hours. Apparently, more than the commission dreams of. Moreover, of the 13.9 kilowatt hours increase in the power commission's report, 7.5 billion kilowatt hours are in the domestic and small light and power classifications—the type of demand which would come when most plants are operating in low-load periods.

Men's minds work strangely. It is possible to arrive at any conclusion by rationalization. The process is simple and all too common. Jump to an *a priori* conclusion and then select facts to bear out that conclusion. That is what the power commission appears to have done. It argues that 56 per cent of the installed steam-electric capacity in the United States on January 1, 1935, was at least ten years old; that 11 per cent was twenty years old; that 1 per cent was at

least thirty years old. Which is undoubtedly true. But what of it?

IT is conservative and prevalent practice in the industry to maintain plants at A-1 efficiency. Just because a generator is ten years old or even twenty years old, it does not follow that it is ready for the scrap-heap. It all depends upon its maintenance and the fact that the industry has spent so much in recent years for construction and rehabilitation is evidence that plants have been kept up.

About the most to be said in favor of the Federal Power Commission's report is that it is encouraging. At least the commission holds out hope for the utilities at a time when they have been going "through the wringer." Threats of Federal regulation, demands for reduced rates, and until fairly recently steady diminution in the use of power have skimmed profits. If the boom the Federal Power Com-

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mission hopes for comes, the industry will have something to be cheerful about.

In the meantime, it is improbable that there will be any extensive construction undertakings for at least a year. It is likely that present capacity will suffice for demand until 1938; and in order to prepare for a demand increase in 1938, extensive construction will not be needed until 1936 at the earliest, and more likely 1937.

What has been happening in the industry itself, moreover, is an interesting commentary on the power commission's fear of a power shortage.

NUMEROUS companies have been devising promotional rates in the hope of creating an increased demand for juice. This has been true in attempts to wean manufacturers and mines to the use of electric power. It has been true, more particularly, with respect to domestic consumption. Companies have practically given away power free in the hope of increasing the steady use of it. Commonwealth & Southern Corporation has its objective rate bases, whereby consumers can obtain more power at the same price as a year before. Other companies have adopted the scheme with variations. This seems ample negation of the commission's theory that there may be a shortage. Obviously, companies would not be trying to increase demand, if they doubted their ability to fulfil it.

Naturally, not all parts of the country are amply provided for. Some sections could use increased capacity. Others are overcapacitated. And in this connection it is noteworthy that government construction of hydro-

electric generating stations appears to have been in those areas which have more power than they can use for years to come. But that is somewhat aside from the point.

EVEN if the power commission were right, utility companies would hardly be likely to undertake extensive construction programs when rates are being undermined by governmental attack and when the Federal government has been agitating against the entire structure of the electric light and power industry—particularly in regard to holding companies. This pressure has been such as to impair the credit of many companies. If they wanted to build, they might find it difficult to obtain funds. Only companies with the strongest credit ratings have been able to finance, and even then we have not had financing in the true sense.

When Pacific Gas & Electric sells a large issue to refund, it is merely substituting one security for another in order to shave interest charges. Investors are not really putting up new money. They are merely exchanging one obligation for another.

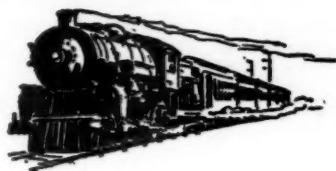
But even if new financing were easy, it is doubtful that utilities could afford to build. If rate structures are to be whittled down—as were the rate structures of the railroads over many years—then an increase in funded debt would be risky in the extreme.

And the logical course for the utilities appears to be to sit tight; to make present plant go as far as possible in meeting demand; to attempt to increase consumption in order to get the most out of current large capacity, and to regard the Federal Power

POWER COMMISSION GOES BOOM

Commission's report as "one of those things" that happen every once in a while in the course of human activities when men jump at conclusions and then proceed to prove them. In so disposing of the report it is neces-

sary to utter a prayer: That the government will not accept the commission's statements at face value and rush into new power plant projects—where experienced utility men fear to tread.



Quotations on Transportation

"AMERICAN economic life can flourish only as the means of transportation are stable, efficient, and intelligently planned."

—RAYMOND MOLEY,
Editor, Today.

"It becomes more and more apparent that the government of the United States should bring about a consolidation of its methods of supervision over all forms of transportation."

—FRANKLIN D. ROOSEVELT,
President of the United States.

"It has come to pass that one of the safest of all places is a seat or berth in a railway passenger car. While personal injuries have been almost eliminated, an equally impressive record has been made in the avoidance of loss and damage to freight."

—RALPH BUDD, *President,*
Chicago, Burlington & Quincy Railroad.

"THE danger of government ownership of railways has never been due to its advocacy. The danger of it has always been due to policies tending to destroy the railways' earning capacity, and thereby to make it necessary for the government to assume their ownership and management."

—SAMUEL O. DUNN,
Editor, Railway Age.

"THE case for the St. Lawrence development seems to rest upon the unsound foundation of fallacious economics. Although the proposed waterway would provide the Middle West with 'cheap' transportation (since it would be upon a toll-free basis), an annual governmental subsidy of \$21,500,000 would be necessary."

—RAMON WYER.

Remarkable Remarks

"There never was in the world two opinions alike."

—MONTAIGNE

HON. ARTHUR W. ROEBUCK
*Ontario Attorney General and
Hydro Commissioner.*

"The Commission has not charged the municipalities what the power cost."

Babson's Washington Reports.

"The President knows what he wants, but he is in a quandary as to how to get it."

PRESIDENT ROOSEVELT

"The NRA decision of the Supreme Court has relegated us to a horse and buggy age."

EARL C. MICHENER
Representative from Michigan.

"Who has a better right to warn a member of Congress against proposed legislation than the person to be affected?"

FRANKLIN D. ROOSEVELT
President of the United States.

". . . The way to enforce laws, codes, and regulations relating to industrial practices is not to seek to put people in jail."

HOMER T. BONE
Senator from Washington.

"We may confront the spectacle of these great (government hydroelectric) plants being completed without any market for the power."

FRANKLIN D. ROOSEVELT
President of the United States.

"No government effort can be expected to carry out effective, continuous, and intricate regulation of the kind of private empires within the Nation, which the holding company device has proved capable of creating."

TYLER DENNETT
President, Williams College.

"Place any man behind a governmental desk and give him a few million dollars of government money to spend and he is likely to develop the fixation that any one who does not approve of the way he does his job is a public enemy."

Report of the Electricity Commission of the Province of Quebec.

"As a matter of principle, the state ought to put itself in the place of an already existing private enterprise, only when the enterprise is incapable, or cannot be effectively compelled, to do itself what ought to be expected from it in the public interest."



A Sweet Smile Not All There Is to Public Relations

THE dynamic thing called good will is the spirit back of the business and reflects its character, says the author, who discusses many of the phases of the problem from the standpoint of the electric business. In his opinion there never will be a time, and perhaps there never should be, when public relations will be absolutely satisfactory.

By O. C. ROEHL

THE old public relations problem still is the problem of the electric business and it will always continue to demand a lot of attention. Today the very existence of the business depends upon how adequately the problem is met.

Public relations in the electric business have too often been looked upon as something abstract. Business often formalizes many of its problems, they are given special names and usually a special department is set up to look after them. While this is often necessary, yet there is a disadvantage that cannot be pushed aside. Often such formalizing does not allow an industry to see its problem eye to eye for what it really is. There is the danger that the problem may be taken out of its natural setting; that it may be distorted by lack of perspective and conclusions arrived at that are purely theoretical. Recognizing the ex-

istence of a public relations problem and setting up a department to look after it will not solve the problem for the electric industry.

Good public relations is not something that can be set apart and considered separately from other things. It is part and parcel of the business of selling electric service. Good public relations cannot be created independently of other activities. Too much of the writing on and discussion of public relations has presented the problem in that vein. Good public relations is something that is built while the entire business is being built. There will never be a time, perhaps there never should be a time, when public relations will be absolutely satisfactory. So long as there is progress, there will be the public relations problem. Only a dead business does not have to worry about good public relations. A living business finds it

PUBLIC UTILITIES FORTNIGHTLY

part of every new advancing decision it makes.

GOOD public relations in the electric business is a many-sided job. The girl at the telephone and the cashier at the cage have a public relations job. Every public contact and communication has a public relations job. Uninterrupted service, management policies, financial structure, personnel, advertising all play a part in molding public opinion.

Good public relations are not, however, the result of having sweet-voiced telephone operators or sympathetic service men or courteous cashiers. Neither will good service alone solve the problem. Well-informed and well-trained employees help, but are not of themselves the answer. Even the absence of political attack would not bring good public relations. Nor is public relations press agentry. It is not anymore these things than "paint on the house is the architecture."

Good public relations start at the root of an organization and deal first of all with basic principles and practice. The dynamic thing called good will is the spirit back of the business and reflects its character. It has its beginnings in service and its ending in fair dealing. It starts on the inside and carries through to the outside. Public relations for permanence must be built on foundations sound to the core. Good public relations do not come by chance. They are the result of the skill with which a business in general is managed.

If public relations are bad, it is due to a defect in management. The public, as a whole, can never be deemed at fault.

ALFRID P. Sloan, president of General Motors, recently said in the 1933 Annual Report of the company:

It is recognized that the corporation's most vital relationship is with the public. Its success depends on a correct interpretation of the public's needs and viewpoints as well as on the public's understanding of the motives that actuate the corporation in everything it does.

In order to formulate its policies in harmony with this basic principle, no effort is being spared to analyze and evaluate the public, forming the corporation's actual and potential customers, in its thinking with respect to all things in which the corporation plays a part.

This represents, however, but one phase of the corporation's public relations policy, for, while it is essential that the corporation understand the public it is equally essential that the public understand the corporation. Good will is established and maintained not alone by excellence of product and service, but by a combination of this with public knowledge and acceptance of the policies of the corporation.

To paraphrase Mr. Sloan's statement, good public relations are dependent on two things, first, a sound, alert, progressive business with a deep understanding of human nature, and second, the selling of that business or that company to the public. Or to put it more bluntly—first, give the customer a square deal, and second, see that he knows he is getting a square deal.

A business technically progressive not sold to the public will not have good public relations; neither will a business that continually sells itself, but which really has nothing to sell. The business must first be skilfully managed for the benefit of itself and its customers, and then management must sell itself and the business to the public. The two go hand in hand. Serve first and then sell. Even though the two are closely interwoven, yet for purposes of analysis and presentation we can separate them and examine each a bit more closely to find

A SWEET SMILE NOT ALL THERE IS TO PUBLIC RELATIONS

the true bases for sound, lasting public relations.

THE most important of the two factors of good public relations is management of the business. A sound, wide-awake management that looks upon every step it takes in the terms of public relations, is the foundation of any business that has public good will. Such a management recognizes that every forward step must be subjected to appraisal from the standpoint of public interest, so that its every action will meet with public acceptance. For good public relations business statesmanship in its broadest and best meaning is needed. Especially is this true in the electric industry where management is much more of the nature of a trusteeship than in other types of competitive, closely held businesses.

It has often been said that an institution is but the lengthened shadow of a man, and truly every business merely reflects its management. Every business management builds up a corporate character, personality which, if it is good, is one of its most valuable assets, as it determines the company's standing, its public relations. Corporate character is sometimes looked upon as something elusive and intangible—a sort of indefinable business "it." This is far from true. It is easily understood and can

be developed with real leadership, hard work, and with a thorough knowledge of the business, business methods, and human nature.

Space does not permit a really thorough presentation and analysis of the essentials necessary to build corporate character in the electric industry. We can, however, briefly examine the internal and the external or public contact policies and then limelight a bit more in detail utility management itself.

IT stands to reason that if business wants to build for real public relations it must first have its own house in order. Its internal affairs must be well coördinated and well organized.

The business must be soundly financed and have a simple, well-balanced financial structure. Its finances must be handled without even a trace of financial skulduggery.

The physical equipment and service must be of the best. There must be a definite plan for research and new development within the business itself, progress must not be left entirely to the equipment manufacturers.

The internal organization must be clean-cut and definite, with fixed responsibilities and with no overlapping authority.

There must also be a definite personnel policy. A far-seeing industrial relations policy is necessary for the



Q "THERE will never be a time, perhaps there never should be a time, when public relations will be absolutely satisfactory. So long as there is progress, there will be the public relations problem. Only a dead business does not have to worry about good public relations. A living business finds it part of every new advancing decision it makes."

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building of real public relations. Such a policy might include education and training, relief plans, savings plans, pension plans, group insurance, wage incentive plans, and other sound wage policies, health plans, recreation and entertainment, and the other usual personnel plans so well known to the modern industrialist.

The usual management helps such as budgetary controls, forecasts, and other tools of management should be found in every business organization.

It really should go without saying that the house must be kept in order by continually diagnosing the concern, plant, money, credit, organization, sales, and intelligence.

THE importance of public contacts and the direct dealings of the business with its customers is well recognized. The handling of such direct contacts, be they in person, through letter, through the monthly bill, or in whatever way they touch the customer must be based on a study of human nature and must show an appreciation of the temper of the public.

The electric business must frankly face the effects of its public contact policies, and must have a clear picture of every policy. If the policy is wrong, it is easier to change the policy than to change the customer. Sometimes a written code of practice is needed. The policy believed in by the management may be one thing, and the way the job is done another; the line force must know definitely what the top is thinking.

There must be the right attitude towards complaints. They must be looked upon as selling opportunities.

Other good-will building helps such

as alert service and appliance repair departments, convenient bill payment methods, adequate records for speedy service, home service departments, good looking buildings and grounds, plan visits (open house), and the many other similar plans and service ideas all find a part in every public relations minded electric business.

IF public relations are to be built up, the management of the electric business must be of the very highest calibre; in fact, the salvation and progress of the entire industry rest upon the methods with which utility management handles its affairs.

There has been a great deal written and said of utility management. Here are a few of the comments and criticisms:

It is said that the utility business is passing from the promotion to the marketing stage, and that there is danger in this change lest initiative and alertness vanish and routine and a type of private bureaucracy place its dead hand upon the business and its management. The business has passed through the age of the promoter, the engineer-builder, the banker-manager. Today a sales-minded leadership alive to current economic trends is required.

It is also said that the utilities have been managed chiefly by engineers, rate makers, and financiers who are more at home with the technical problems than the sales or public problems of the utilities. There has also been too much accounting management by those who explain and conduct the business in the terms of reports, balance sheets, and legal decisions, all to the bewilderment, not only of the



Making Customers See the Bargain

"I*f the electric industry can so direct its selling energies as to make the customer really feel that his electric bill is the best bargain he can buy and that it returns more to him than he pays out, then the industry will have taken a number of seven league steps towards its goal of better public relations. But to do this requires a type of management which is sales-minded from the top to the bottom."*

public which cannot hope to understand the business, but also to the bewilderment of a good share of the business itself.

ANOTHER criticism is that whenever any trouble threatens a utility the usual practice is to call in the legal advisers. Legal victories mean little in the minds of the public and may even in some instances antagonize public opinion. While every business must stand upon its legal rights, yet doesn't it seem possible that better public relations might result if utility management would sometimes speak for itself without "advice of counsel."

For good public relations electric utility management must continually be on the alert. As General Motors says: "With an eye to the future and an ear to the ground."

Utility management cannot spend its time sighing for the old and viewing with alarm. If trouble is to be avoided, a lookout must be kept at the bow to read the signs

of the times a little in advance.

Management must continually have its hand on the throttle ready to speed up or slow down or alter its course entirely in line with general progress and conditions. A spirit of discontent must diffuse through management, for a contented organization, like a contented cow, has no greater future ahead. Electric utility management must always have something on the fire for tomorrow. No business, not even the electric business, can stand still; if it does, it may find that the procession has passed and left it behind. A few examples will illustrate what I have in mind.

FIRST, as being most common, is the question of rates. By the way, why can't electric service have a *price*, like other services, why a *rate*, a word which of itself smacks of something unpleasant, like tax rates? Fundamentally, the business of the electric industry is to produce and *sell* electric service.

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The fundamental rules and economies which apply to all business apply also to the electric business. However, there seems to have developed a sort of legalistic formula for setting utility prices, based on the limitation of profits. This attitude should be recognized by utility management as being economically unsound. This method of price fixing has been held uneconomic by the courts,¹ although many commissions seem to believe in it.²

The "profit limiting formula" for the setting of electric prices has done a great deal of harm to public relations by lulling to sleep progress in electric pricing. Utility management seems to have followed the line of least resistance and has paid too much attention to the profit limitation formula. Its energies, therefore, have often been directed towards price justification, whereas they should be concerned with the fixing of prices to yield the greatest return, with the largest volume and at the lowest possible prices.

The present prices of electric service are too involved and varied and are not understood. Comments on prices should not be answered as unfounded criticisms and attacks on the business. Rather, public relations minded electric managements will reconsider the foundations of electric prices, they will read the "signs of the times" and use such signs as help to push their business forward.

ANOTHER question, to illustrate the problems of management, comes

¹ *Cotting v. Kansas City Stock Yards Co.* (1901) 183 U. S. 79.

² Report of New York Commission on the Revision of Public Service Commission Laws.

to mind, through a recent comment of Samuel Ferguson, at a meeting of the U. S. Chamber of Commerce in May, 1934, on "the pooling of facilities of nonrelated companies and their operation at best efficiencies regardless of management." Mr. Ferguson described the Connecticut Valley Power Exchange and said "Such practice, if universally applied to the whole country, would mean the elimination of a very large economic waste." Perhaps, here is another "sign of the times" for public relations minded management. There are comments that such pooling of facilities will be promoted by the government; if so, public relations of the industry will not be helped.

UTILITY management today is troubled with political problems. Management must not lack the courage of its convictions and the character to stand up for what it believes. The case for private ownership is one of the strongest; the whole of recorded history stands ready to testify in its behalf. Management cannot be made up of critics, but must be made up of builders. The business has social obligations to meet and for good public relations they must be met.

Utility management must also plan for tomorrow's man-power and build it so that the business may be carried on and do justice to the bright future that lies ahead. Management must have a continual lookout in its business or *look out*. There is also the old saying about locking the barn after the horse is stolen that might help bring out its responsibilities to a public relations minded management.

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So much for the first factor in building up public relations. Now to consider the second—selling the business to the customers. After having developed something to sell and worth selling, the next job is to sell it.

EVERY business is today continually selling, even the government is selling the New Deal, and in Germany Hitler has gone so far as to have a minister of propaganda. The electric business, if it wants good public relations, must sell itself and its services to the public.

While the electric industry has done a lot of talking about itself, it has done very little real selling of its services. To a great extent the business has been defending costs rather than selling values. Costs are of little interest to most customers as they do not indicate advantages or values. No buyer is greatly impressed by any other considerations. In discussing the business too much time has been devoted to an argument for either the financial, legal, or engineering side of the case.

The real merchandise of the electric business is electric service and sales efforts, and customer discussions must center around that product. Nowhere is there a better bargain than electric service. But does the customer think so? Many of them don't because someone else has sold them on the fact

that their electric service bills are burdensome. The industry has not approached the selling of its services with the salesman's mind.

If the electric industry can so direct its selling energies as to make the customer really feel that his electric bill is the best bargain he can buy and that it returns more to him than he pays out, then the industry will have taken a number of seven league steps towards its goal of better public relations. But to do this requires a type of management which is sales-minded from the top to the bottom. It requires a management which appreciates the necessity of selling and which everlastingly attacks its problems with all the merchandising tools it can devise.

ADVERTISING and publicity can be great helpers to management in selling the electric business and in molding public opinion.

Ever since the days when Rameses II erased his father's name from the pillars of Karnak and engraved his own has publicity been valued. The chiseled rocks that lined the old camel trails doubleleaded the story of Solomon's wisdom. Even the Pilgrims believed in publicizing the ducking stool and "telling the world" is an American byword. America is sold on advertising. The man on the street today gets a little information



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from the movies, a little more over the radio, and a great deal from the newspapers and magazines. The largest single source of information is the printed word. And the printed word through honest advertising can be a tremendous factor in building good public relations for the electric business.

However, it must be remembered that advertising alone cannot bring good relations, and that press agency and publicity is not public relations.

Much of the advertising of public utilities has never helped public relations and should never have been printed, but well-directed advertising more than pays its way, and can be a real ally to the business. Here is what one advertising man has to say about the attacks on the utility business and the value of utility advertising.³

Sometimes, advertising is called in. In a dignified defensive way, the public is told the little essential facts which the politician omitted. But by that time the public is too tired to read the rebuttal. Other things are on the front page.

And so the beautiful but toothless advertising by the utility plays to an empty house.

Now what is the situation in regard to the utilities? Isn't it true that few people, if any, understand anything at all about utility economics? This public ignorance is what makes the subject an amazingly fertile issue for the politician. He has only to mix a few half-truths with a liberal dose of fear and prejudice, and there it is on the front page.

The public needs to be educated on some of the fundamentals. Yes . . . but the public as a mass hates to be educated.

Instead of feinting with sporadic defensive gestures, should not advertising wade right in and lay the facts right on the line?

This is the kind of battling which advertising does so well. As a style, it is not highly dramatic. It lacks the glamor of the front page. It is a difficult style to stick to, because the temptation is to try a haymaker and smack the other opponent to the canvas.

But suppose advertising understood a long-term educational campaign to plant in

the public mind just this one fact—"Your electricity is the biggest bargain you buy."
—How that would knock the front-page appeal out of the politician's box of tricks.

Incidentally how that would raise the tower of good will and public relations.

THERE is a lot of talk about institutional advertising and some advertising of this nature can assist in public relations. But all such advertising can usually and should be tied up with something that interests the public. John Public doesn't care about the problems of the electric industry; he says: "Just tell me what electric service will do for *me*." He is interested in the business and the product only as it affects *him*.

Some really good advertising of an institutional nature has been done; the letters to customers recently written by Alex Dow of the Detroit Edison, by Thomas Martin of the Alabama Power Company, and by Frank M. Laughlin of the Puget Sound Power and Light are examples. If advertising is to help public relations it cannot wander; approaches and technical details may change but the objective of selling the business and of building good relations in terms of human aspirations and reactions must always be kept in mind. A good archer is not known by his arrows but by his aim, and he runs far that never turns.

Such then are the high lights of the public relations problems of the electric light and power industry. The two factors in public relations are conducting the business fairly and honestly and then selling such a business to the public. However, in the final analysis, good public relations really

³ Mr. Osborn—of Batten, Barton, Durstine and Osborn—*Printers' Ink*—April 12, 1932.

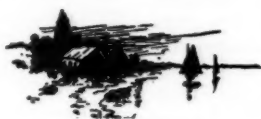
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only reflects good management alive to its business and social obligations and responsibilities, all the rest is mere detail.

THE electric business, and any business for that matter, is never going to have perfect public relations; the problem will be there as long as the business serves the public. However, the problem must continually be considered; too much weight must not be put on tradition and precedent; and past mistakes must be analyzed and

corrected in the light of present conditions.

The electric industry should always remember that it is not speaking or dealing with a mass meeting of its customers, but rather with a continuous, ever changing procession. Approaches and methods may change but a high order of leadership combined, not only with executive ability but also with an understanding of human nature, will always be able to improve the ever-present public relations problem of the electric industry.



Facts Worth Noting

LESS than 6 per cent of all Australia is privately owned.

THE total electrical production for 1934 was 2.7 per cent above that for 1933.

WESTBOUND trains run east and eastbound trains run west through Fire Creek, West Virginia.

DOMESTIC sales of electricity reached a new high of 12,797,635,000 kilowatt hours in 1934, an increase of 7 per cent over the preceding year. At the same time the average price for domestic use went to a new low of 5.3 cents per kilowatt hour.

INDUSTRIAL production generally during 1934 was up 25 per cent over the low year of the depression. Included in the industries in which production increased were automobiles, 40 per cent, iron and steel, 13 per cent, and cement, 22 per cent. Construction was up 50 per cent. Mineral production and the output of electric power were up 6 per cent each.

THE opening December 7, 1934, of telephone service between United States and Japan, with its 480,000 telephones marked the sixtieth foreign country to be brought within voice range of the United States. Now only three countries—with more than 100,000 telephones—New Zealand, China, and Russia, do not have telephone communication with United States.

MEASURED by total man-hours worked, the depression has struck hardest at activity in the electrical equipment and the iron and steel industries, which were roughly but one third as busy in September, 1934, as they were in September, 1929. Man-hours worked declined 71.5 per cent in the electrical equipment field and fell off 69.5 per cent in the iron and steel industry over the 5-year period.

Financial News and Comment

By OWEN ELY



Connecticut to Block Federal Meddling in State Utility Control?

IN Connecticut, where such intrastate utility companies as Hartford Electric Light Company have an enviable record for conservative financial management, the legislature recently enacted a utility law containing the following (§ 6):

No gas, electric, or water or holding company, or any official, board, or commission purporting to act under any government authority other than that of this state or its divisions, municipal corporations, or courts, shall interfere with or attempt to interfere with or experience authority or control over any gas, electric, or water company incorporated by this state and engaged in the business of supplying service within this state, or with or over any holding company incorporated by this state and doing the principal part of its business of supplying services within this state, without first having obtained the approval of the commission, except as the United States may properly regulate actual transactions in interstate commerce. Any action contrary to the provisions of this section shall be voidable on order of the commission.

The Outstanding Record of Hartford Electric Light Co.

HARTFORD Electric Light Company (traded on the New York Curb and currently around 68½) is a model of New England conservatism. The company has no funded debt or preferred stock and the earnings per share in 1934 (\$2.98) were larger than those

in 1929 (\$2.79) which is perhaps not true of any other utility of comparable or larger size in the United States; and in the first four months of 1935 kilowatt-hour output was 10 per cent ahead of last year. This company and its affiliate, Connecticut Power Company, were described at length in *Fortune* for April, 1933. The company was founded in 1881 and in the past decade has been under the able management of Samuel Ferguson, formerly president and now chairman of the board. To quote from *Fortune*:

For ten years he has been concentrating on getting more business from the domestic consumer and making that business profitable. His chief instruments to that end have been rates—lower rates. In Connecticut as elsewhere there is a public utility commission with jurisdiction over rates—with power to require their reduction. But the commission acts in such matters only when a formal complaint is filed with it by ratepayers. Such complaints have been rare. Only two or three have been filed in the last twenty years.

Bringing *Fortune's* account up to date: On June 13th this year the Connecticut Public Utilities Commission denied the petition of fifteen individuals for a general investigation into the rate structure of the company. In answer to the charge that rates were too high on the basis of dividends paid to company's stockholders, the commission stated that company's increased earnings had come as the result of more efficient management and economies in operation. The commission called attention to the voluntary rate cuts of

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21 per cent in 1921-4, 15 per cent in 1924-7, 18 per cent in 1927-30, and 22 per cent in 1930-33. The company's average domestic kilowatt-hour rate of 4.36 cents compares with an average of 5.44 cents for Connecticut and its rates are among the lowest in the U. S.

New Illinois 3 Per Cent Utility Tax

THE long-pending bill for a 3 per cent sales tax on gross receipts of public and municipal utilities was finally passed by the Illinois legislature on June 27th. The bill is effective until January 1, 1937, when the rate drops to 2 per cent. The 3 per cent rate parallels that now paid by New York city utilities as a municipal tax. Singling out utilities for such special taxes seems specially unfair to that industry in view of the fact that it now undoubtedly carries the heaviest burden of taxation of any large industry, while revenues are being simultaneously reduced through rate cuts.

Regarding the Illinois tax, the *Wall Street Journal* stated:

Passage came when the state senate concurred in a house amendment excluding from the tax sales of gas and electricity to industrial customers. Aside from this the bill applies the tax to sales of water, gas, and electricity and to telegraph and telephone service. The bill now goes to Governor Horner for signature.

If Illinois utilities in the last recourse prove unable to pass on to consumers the 3 per cent state sales tax, as they will seek to have the Illinois Commerce Commission authorize, this tax would be equivalent to something over \$1,320,000 a year or 82 cents a share on capital stock of Commonwealth Edison Company. It would cost Peoples Gas Light & Coke Company in the neighborhood of \$800,000 a year or almost \$1.20 a capital share and Public Service Company of Northern Illinois about \$600,000 a year or close to \$1 a common share.

A later report, indicating that the Illinois Commerce Commission had ruled that the taxes could not be passed along to customers, resulted in sharp declines in Illinois utility stocks.

Dividends Passed to Maintain Working Capital

RECENT passing of dividends on American Water Works & Electric common stock and American Power & Light preferred issues (which were previously paying one quarter of the regular rate) calls attention to the necessity for certain systems not in a position to raise new capital, to provide funds through earnings for any necessary additions or betterments. Ordinary upkeep is taken care of through maintenance and replacements (depreciation) accounts, but growth of electric output may require plant extensions during the next year or so. Were it not for pending Federal regulation it seems probable that most utilities could easily finance expansion requirements through the bond market, but utility financing this year has been almost entirely of a refunding character. It remains to be seen whether the market will readily absorb issues designed to provide new capital, except when issued by highest grade operating companies. Until the future status of holding companies is more clearly defined, as well as the degree to which local operating companies will be subject to Federal supervision, the ability of the utilities to finance necessary expansion may remain in doubt.

Passing of American Power & Light preferred dividends occurred despite the fact that that company as of December 31, 1934, reported cash assets of over \$15,000,000 against current liabilities of about \$1,700,000 (parent company only). American Water Works had cash assets of \$7,638,000 and total current assets of \$16,000,000 against current liabilities of \$10,203,000. This showing, while less favorable than that of American Power & Light, showed improvement over a year ago. Water Works had, however, been covering its 80-cent common dividend by only a few cents; in the twelve months ended April 90 cents was earned against \$1.43 in the same period last year. American Power & Light had been covering its preferred payment about twice.

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Are Other Dividends in Danger?

AMONG the utilities which have reduced their dividend rates this year are United Gas Improvement, Consolidated Gas (N. Y.), Public Service of New Jersey, and Pacific Lighting. Some dividend rates which are currently being covered with a rather small margin are shown in the table below (it should not be inferred that dividend cuts or omissions are likely in all cases, especially if earnings continue to recover, but the list may be of interest).

New Developments in New York City Situation

THE public service commission of New York is expected to take no action on the new rate schedules submitted by the electric companies of the Consolidated Gas System until after July 8th. The Hotel Association of New York City and five realty corporations claim that the proposed new classification would result in a substantial increase in their electric bills. Chairman Maltbie of the commission stated that these increases applied to only a few consumers, but since it had not been realized that the new schedules would result in any such increases the schedules would require further study.

Mayor LaGuardia still persists in his \$45,000,000 municipal power plant project (although the plan has twice

been rejected by the board of estimate) and is preparing municipal legislation to authorize a referendum vote later this year. At a recent hearing on the plan, Douglas L. Elliman, president of the Real Estate Board of New York, stated:

The mayor's estimate of costs is erroneous. He allows \$13,000,000 for the building. This would be only one unit. No large user of current would risk a contract with the owner of only one unit. There must be a spare unit, so the mayor must add several millions more to his estimate. He has an estimate of \$27,000,000 for the methods of transmission of current, and this is wrong. He talks of using the subways as conduits, but he must get from the subways into the individual buildings and into the individual users of the service, which means breaking into the walls of the subway and into the walls of the buildings. For this purpose the \$27,000,000 is entirely inadequate.

Increased Depreciation Charges for New York Utilities Deferred

SOME time ago the New York Public Service Commission prescribed a new system of uniform accounts under which depreciation charges of New York utilities would probably have been substantially increased. On June 27th the appellate division of the New York Supreme Court ordered the issue back to the commission for hearings. It seems unlikely therefore that 1934 earnings will have to be re-stated on the new accounting basis. Possibly a major difficulty is the fact that the new depre-

	July 7th Price About	Current Dividend Rate	Current Yield About	Earned 12 months ended Mar. 31	Estimated Earnings Calendar Year 1935 ¹
American Light & Traction	12	\$1.20	10.0%	\$1.16	\$1.20
National Power & Light	10½	0.80	8.0	0.87	0.85
North American Company	18	1.00	5.6	1.07	1.10
Public Service of New Jersey	38	2.40	6.3	2.95 ²	2.30
United Gas Improvement	15	1.00	6.7	1.17	1.05
Brooklyn Union Gas Co.	65	5.00	7.7	4.78 ³	3.90
Southern California Edison	20	1.50	7.5	1.18 ³	1.35
Electric Bond & Share \$6 Pfd.	66	6.00	9.1	6.34	6.50

¹ As estimated by Standard Statistics Co., Inc.

² Year ended December 31, 1934.

³ After deducting revenues held in suspense pending rate cut decision.

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ciation charges should theoretically apply as a percentage of original costs, and such costs have probably not been compiled for all companies composing such large systems as Niagara Hudson, Consolidated Gas, Associated Gas, etc. Brooklyn Union Gas in its annual report called attention to the fact that the original cost of the property was unknown.

Pacific Gas and the Central Valley Project

THE two leading Pacific Coast utilities, Southern California Edison and Pacific Gas & Electric, have excellent management and records, but investors in their junior securities sometimes are disturbed by the possibilities of earthquakes, radical politics, and the future encroachment of huge public works projects. The possible effects of Boulder dam on Southern California Edison were discussed in this Department in the May 23rd issue. The latest bond prospectus of Pacific Gas gives details on the "Central Valley Project" of California. The legislature in 1933 created the Water Project Authority to construct and operate the "Central Valley Project" in the Sacramento and San Joaquin valleys at a cost not to exceed \$170,000,000 and issuance of bonds to this amount was approved by electors in 1933. Major objects comprise irrigation, flood control, navigation improvement, water supply, and hydroelectric power development; no provision is made for distribution of power or water, although preference is offered to cities, districts, etc. Applications are pending before the PWA for about \$170,000,000 to carry out this project, but no decision has yet been made, and bills introduced in Congress for definite appropriations have not been passed.

The prospectus indicates that the company will not be substantially affected by the Boulder dam project, power from which will largely be sold in southern California (San Joaquin Light & Power Corporation may be affected to some extent).

The Sacramento Municipal Utility District voted last November to issue \$12,000,000 for a municipal electric plant but this is at present tied up in court action; about 34,000 out of the company's 760,000 electric customers are located within the district.

The Hetch Hetchy water project of the city of San Francisco, which involves generation of electric energy now being distributed by the company as agent for the city, is also described. The question whether the payment of \$2,000,000 per annum received by the city from the company under such contract as governed by the Raker Act is now being investigated by Secretary of the Interior Ickes.

Utility Rates vs. Taxes

THE magazine *Fortune* has conducted a survey to determine whether the average citizen is more concerned about utility rates or about taxes. In other words, how many consider rates too high as compared with those that consider their taxes too high? Which is of more importance, efforts to reduce utility rates, or a campaign to reduce government bureaucracy and lower taxes?

The same question was asked with respect to the monthly electric bill, the monthly telephone bill and the yearly tax bill—"Do you regard it as high, low, or reasonable?" The answers were tabulated as follows on a percentage basis:

	Electric Bill	Phone Bill	Tax Bill
High	40.8%	39.8%	49.9%
Reasonable ..	53.9	55.5	41.0
Low	1.9	1.3	1.7
Don't know ..	3.4	3.4	7.4
	100.0%	100.0%	100.0%

Refunding Operations

PACIFIC Gas & Electric has issued \$30,000,000 additional First & Refunding "G" 4s due 1964 (\$45,000,000 were offered March 28th). Other re-

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cent new utility issues are the \$18,594,000 Consumers Power Company First Lien & Unifying Mortgage 3½s due 1965 (to become "First Mortgage Bonds" after January 1st), offered at par by a syndicate headed by Bonbright & Co.; \$500,000 Southern Utah Power Company First 5½s of 1960 at 87½; \$35,000,000 Southern California Edison Refunding Mortgage "B" 3½s due 1960 at 98½, offered by a large syndicate headed by the First Boston Corporation; and \$9,765,000 Central Hudson Gas & Electric Corp. First & Refunding 3½s due 1965, offered by a syndicate headed by Edward B. Smith & Co. and Kidder Peabody & Co.

Principal new issues in prospect are \$53,000,000 Edison Electric Illuminating Company of Boston First Mortgage Bonds due 1965 (filed June 11th); \$40,000,000 Cleveland Electric Illuminating Company General Mortgage 3½ per cent Bonds due 1965 (registration statement filed June 26th); \$70,000,000 Duquesne Light Company First Mortgage 3½ per cent Bonds due 1965 (filed June 28th); and \$16,000,000 Public Service Co. of Northern Illinois First Lien and Ref. Series 4½s due 1960 (filed about July 1st).

The Cleveland Electric Illuminating Company will use net proceeds (together with other treasury funds) to redeem October 1st \$18,500,000 First Mortgage 5s, \$10,000,000 General "B" 5s, and (at a later date) \$11,500,000 General "A" 5s. The underwriting group, headed by Dillon Read & Company, will include the First Boston Corporation, Brown, Harriman & Company, Inc., Spencer Trask & Company, Coffin & Burr, Blythe & Company, Stone & Webster and Blodget, Goldman Sachs & Company, and Hayden Miller & Company.

The Duquesne Light Company issue will be used to redeem in September \$70,000,000 First 4½s (Series "A" and "B"). The underwriting group were not mentioned but principals may in-

clude the First Boston Corporation, H. M. Byllesby & Company, Ladenberg Thalmann & Co., etc.

The Public Service Co. of Northern Illinois 4½s will be underwritten by a syndicate composed of Brown Harriman & Co., Field Glore & Co., Halsey Stuart & Co., Lazard Freres & Co., Lee Higginson Corp., and Edward B. Smith & Co.

Edison Electric Illuminating Company of Boston will use the proceeds of its issue to call \$55,000,000 notes due 1937. As of the registration date (June 11th) the interest rate and the underwriting group had not been determined, since Massachusetts laws require that proposals be invited, subsequent to approval by the department of public utilities.

AN interesting feature of the Boston financing is the use of "credit insurance" at an expense of nearly \$100,000. A credit agreement has been made with fifteen banks for a consideration of this amount, in order that there shall be no hitch in the redeeming of the notes, and also because of possible saving in interest charges. The SEC was reported to have considered this insurance somewhat unnecessary since the company's two applications filed last year both became effective within the statutory requirement of twenty days. However, it is possible that the company anticipated delay due to the state requirements; the issue is already about a week overdue, based on the SEC 20-day schedule. The present application involves a total expense of about \$300,000 (about one third for credit insurance), which in relation to the size of the issue is nearly double the cost of last year's offerings (.56 per cent compared with about .3 per cent).

Cleveland Railway Company has filed a registration statement covering a new issue of \$5,250,000 First 5s due 1945, to retire its 6s and provide extensions and improvements. The issue will be underwritten by Hayden Miller & Co.

What Others Think

Are the Railroads Over regulated?

CAUSTIC criticism recently uttered by such a respected voice in national affairs as that of Al Smith, in which he charges that the railroads have been excessively regulated, serves to focus attention on a number of studies now being published which closely analyze the regulation of the dean of American public utilities—the railroad carriers.

The most ambitious of these, perhaps, is a series written by Professor I. L. Sharfman, of the University of Michigan, under the auspices of the Commonwealth Fund. The magnitude of Professor Sharfman's work, entitled "The Interstate Commerce Commission," can be appreciated by the very fact that it is being published in four parts and is the result of continued research for over ten years. Parts One and Two were published in 1931 and the first volume of Part Three was published early last Spring, while Part Four is yet in the process of preparation. It is in the latest volume, however, that Professor Sharfman touches upon a really fundamental question that is of vital importance, not only to the ultimate fate of railroad regulation, but every other kind of utility regulation—that is the question of drawing a line between the proper sphere of regulation and the proper sphere of management.

Professor Sharfman found that members of the Interstate Commerce Commission as constituted a few years ago included both the Left and Right viewpoint. He selected former Commissioner Thomas F. Woodlock as an exponent of the conservative view and the present coordinator, Joseph Eastman, as the champion of stricter regulation.

THE author points out that it is definitely up to the commission to determine whether it has authority to

strike out boldly in order to mold railroad transportation along lines adjusted to public industry, or to construe its own authority as a restricted basis of control "whereby it might seek only to prevent obvious subversion of the public interests and a plain departure from good business practice." After discussing the difficulty of finding any clearly defined line of demarcation between management and regulation, Professor Sharfman explained the hesitancy of the commission in determining its own course, as follows:

Within its own ranks, Commissioner Woodlock, at one extreme, consistently argued that the fact of the return of the railroads from public to private operation after the period of Federal control amounted to a declaration of policy that private management should be given the fullest latitude consistent with the statutory requirements; Commissioner Eastman, on the other hand, was equally insistent that the railroads, long subject to a control which set them apart from ordinary industry, had revealed deficiencies which required for their eradication the fullest use of the authority which Congress had seen fit to grant.

PROFESSOR Sharfman himself is of the opinion that prior to 1929 events appeared to justify the restrained policy advocated by Ex-Commissioner Woodlock. The depression, however, brought a change in conditions which required a change in policy. On this point Professor Sharfman stated:

Most of the recent measures of general applicability were enacted, it is true, for an emergency, but they reflect conditions not without precedent, and they themselves set precedents for future governmental action. In any event, they clearly support the reasonableness of vigorous and forward-looking employment of public authority over extensions and abandonments, combinations and cooperative relations, and financial policies and practices, in an industry where the case for extensive regulation is peculiar-

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ly strong even under normal conditions; and at the same time the commission in its exercise of these powers may be blazing trails and accumulating experience, in a degree never suspected in 1920, toward a fuller public control of all industry.

UNFORTUNATELY, we do not have available Mr. Eastman's definite reaction to these closing words of Professor Sharfman's third volume, but Mr. Woodlock, writing in *The Wall Street Journal*, promptly took issue with Professor Sharfman's opinion:

He (Professor Scharfman) will not, this writer (Mr. Woodlock) feels sure, take it amiss if the latter views the above-mentioned "blazing of trails" as about the most dangerous thing that can happen to this country, and that in double degree. For an administrative agency, acting as it must—and as the Interstate Commerce Commission does—in a quasi judicial and quasi legislative capacity, to "blaze" any trail, or for that matter to follow any trail other than that clearly indicated by the law under which it acts, is a clear usurpation of power. In a political system such as ours this policy comes about as near to treason as is possible in peace time. Secondly—this, perhaps, is debatable whereas the foregoing is not—a "fuller public control of all industry" is something to which our national psychology is probably less well adapted than is that of any other country in the civilized world. Nor does it seem to this writer that such changes as have taken place in transportation conditions since 1929 have anything to do with administrative policy in the above-mentioned respect. The place where those changes should be dealt with is the law itself and not in the discretion of the administrative bureau. Finally, if regulation is further to absorb the powers of management, what sense is there in continuing the farcical pretense of private ownership and operation?

But whether one agrees or not with Professor Sharfman's conclusion, it must be admitted that the volumes of this series so far published represent the most important contribution to the literature of railroad regulation since the publication of Commissioner Clyde B. Aitchison's 5-volume annotations on the Interstate Commerce Act five years ago.

SOMEWHAT analogous to Professor Sharfman's critical survey of railroad regulation in the United States is the recently published volume entitled

"Railroad Nationalization in Canada" by Dr. Leslie T. Fournier, assistant professor of economics at Princeton University. Of course, Canada has no history of regulation to be studied or criticized in the same sense as that existing in America, but Mr. Woodlock could find no better example of the reasons why we should hesitate to abandon the "farcical pretense of private ownership."

In America, regulation has shown a tendency to become more and more radical until it is finally abandoned in favor of outright competition on the theory that a "yardstick" competition by the government is the most effective way of regulating privately owned utilities. This tendency was observed as early as 1917 when the late President Woodrow Wilson stated that regulation was but the half-way house on the road to public ownership. Our Canadian neighbors, it would appear, were more progressive than ourselves and short circuited the "farcical pretense" stage of regulation which public ownership advocates declare is a futile and expensive waste of time and plunged right into the job of having the Dominion Government operate the national railroad in more or less competition with a privately owned national railroad—the Canadian Pacific.

Dr. Fournier's book clearly shows that the "yardstick" idea in Canadian railroad history has been a far more miserable failure than the regulation of United States private railroads could ever be said to be. Dr. Fournier presents an analysis of the financial and operating record of the Canadian national system in direct comparison with its private competitor. He appraises the problems which have arisen from the competition of government with private enterprise and clearly demonstrates the severe financial drain upon the Dominion treasury which railroad nationalization in Canada has brought about.

Both opponents and proponents of the TVA yardstick theory might also find room for serious reflection in Dr.

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Fournier's demonstration of the un-economic nature of the competition between the two railways. The competition is so unfair that it has undermined the financial position of the Canadian Pacific without, of course, helping the position of the Canadian National. The author finally concludes that the only solution of the problem is a cessation of competitive railroad operation in Canada under a plan which provides for the unified management of both lines under private ministration, but with adequate

regulation. If this happens, our progressive Canadian neighbors would complete the entire cycle of regulation and arrive back at the same point which Co-ordinator Eastman now hints we should abandon in the United States.

IN conclusion, a recent volume by Professor D. Philip Locklin, of the University of Illinois, entitled "Economics of Transportation," merits recommendation in connection with the general subject discussed in this review.

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Professor Locklin's book is more coldly historical but includes much valuable detail on the economic aspects of transportation problems, such as the relation of freight rates to prices and the relation of freight rates at the location of industry. In recording the evolution of the policies of the Interstate Commerce Commission, Professor Locklin covers in part much of the same ground covered by Professor Sharfman. But the book reaches its greatest value, in the opinion of this reviewer, in its detailed and up-to-the-minute information on railroad valuation, rate of return, dis-

crimination, and competition with other forms of transportation.

—F. X. W.

THE LINE BETWEEN REGULATION AND MANAGEMENT. By Thomas F. Woodlock. *The Wall Street Journal*, May 23, 1935.

THE INTERSTATE COMMERCE COMMISSION. By I. L. Sharfman. Part Three, Volume A. The Commonwealth Fund. New York, 1935. \$4.50.

RAILWAY NATIONALIZATION IN CANADA. By Leslie T. Fournier. The Macmillan Company of Canada, Ltd. \$3.50.

ECONOMICS OF TRANSPORTATION. By D. Philip Locklin. Business Publications, Inc., Chicago, Ill. 1935. \$4.00.

A Precision Meter for Public Opinion

ON July 1, 1935, the city of Washington, D. C., sweltered under a blazing summer sun for which it has become so noted that Lord Bryce once declared it to be the worst situated capital city in the world. But far more irritating to many of the four hundred and twenty-odd harassed members of the House of Representatives was the "heat" being applied to them from two powerful conflicting sources to influence their votes on the "death sentence" clause of the Rayburn-Wheeler Bill. On one side, administration "liaison" officials were wheedling with patronage promises and threatening with political extinction those who failed to vote for the death sentence. On the other side stood stacks of letters purporting to be from the folks back home begging and demanding that their Congressmen protect small investors by voting for a holding company reprieve.

What was a poor Congressman to do in such a situation? The answer would be easy if the individual Congressmen knew just how the majority of the folks back home really felt. Were the administration's good graces absolutely essential to political survival, or was the administration's prestige sinking? Did the large stack of letters really express enough organized sentiment among his constituents to require compliance by a

devoted servant in Congress, or were they merely the transient and artificial result of "power trust propaganda?" Many a weary Congressman tossed in a sleepless bed that sultry night of July 1st, trying to figure out answers to these questions. What Congress did the following day is now a matter of history. The pressure from the mail carrier overwhelmed the pressure from the opposite end of Pennsylvania avenue, but the situation was an excellent example of how badly needed is some precise method for measuring the public opinion. What wouldn't the "wobbling" Congressman have given that night for a little report along the following lines:

Dear Representative X:

Here is a table showing percentage opinion of your voting constituents on the holding company "death sentence" clause:

Those who don't even know what all the shooting is about	42%
Those who know but don't give a hang which way you vote	18%
Those who are rooting for the death sentence	8%
Those who favor reprieve	15%
Those who are already sore at you and will vote against you next election no matter whether you go to the capitol tomorrow or stay home and drink juleps	17%

Total 100%

Now use your own judgment.

Very truly yours,
Public Opinion Metering Service.

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The figures in the foregoing are entirely fictitious, but they give a rough idea of what a Congressman would like to know on the eve of an important ballot.

BUT there are numerous difficulties encountered in attempts to gauge public opinion, or even a segment of it, on a more or less complicated question, such as the extent to which utility companies should be regulated. For example, *Literary Digest* polls and other categorical forms of straw balloting may be a fairly satisfactory method of getting a preview of public sentiment on a specific narrow point, such as "Will you vote for Roosevelt or Hoover?" Or "Do you favor repeal of prohibition?" Utility regulation, however, is a relative matter. It runs the scale from no regulation at all to a point approaching *de facto* socialism. No mere nose counting questionnaire can be depended upon to give an accurate picture of just how far a majority of the public wants to go on the various propositions.

With this difficulty in mind, the recent system of studying public reaction to the question of electric utility regulation by Professors Herman C. Beyle and Spencer D. Parratt, of the School of Public Affairs at Syracuse University, merits special notice. Beyle and Parratt begin their exploratory research by rejecting the customary yes-and-no form of straw ballot. They decided to devise a questionnaire which included a series of statements, each being a description of some regulatory practice. The whole list (69 statements) represented a wide range of official action, running all the way from no regulation at all to the most extreme and complete regulation short of government operation of electric utilities. Statement No. 1 was as follows: "The electric company charges whatever rate it chooses without making any report to the public service commission or being interfered with by the public service commission in any manner." At the opposite extreme, statement No. 69 was as follows: "The public service commission exercises all

the rights over the electric company property that an owner exercises over his own property." Each of these statements was given a private scale rating. Question No. 1 represented absolutely zero, while question No. 69 represented a hundred. All the statements in between were likewise scaled according to the intensity of the regulatory practice described.

THE order of these statements appearing on the questionnaire was mixed up so that the person answering them would be under the necessity of thinking out each statement on its own merits, rather than approving a certain sequence *tout ensemble*.

Having thus concocted what they thought was a reliable "camera" which could produce a fair, clear, and understandable "picture," Beyle and Parratt proceeded to interview four distinct groups of thirty-three persons each. The first group was composed of "thirty-three important citizens of Skaneateles, N. Y." The second was a similar group of citizens of Cazenovia, N. Y., the third citizens of Syracuse, N. Y., and the fourth "thirty-three public law students at Syracuse University." The "important citizens" interviewed were composed of ordinary "leaders" of public opinion in their respective communities. For obvious reasons the report did not give the names of the citizens, but they included attorneys, merchants, physicians, salesmen, and other random callings of the different trades and professions.

Each person interviewed was asked to signify whether he approved of the various statements contained in the list. The results were drawn on a chart presenting four comparable curves, one for each of the groups of persons interviewed. The reproduction of the chart in this review without more detailed explanation is likely to be confusing, but the net result of the Beyle-Parratt studies reveals an amazing degree of consistency in public opinion on the extent of regulation, as expressed by these representative groups located

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in and about the city of Syracuse, N. Y.

Recalling that the zero in the Beyle-Parratt scale meant no regulation at all and 100 indicated approval of extreme regulation, the returns for each of the three citizen groups presented the same upper limit of majority endorsement, namely 68. In the student group, the majority went as high as 71. The average upper limit of majority endorsement in all four groups amounted to 70. This may surprise some readers (it certainly surprised the reviewer) who may have imagined that student opinion was much more radical than average intelligent opinion of mature citizens.

ANOTHER interesting point brought out in the Beyle-Parratt returns was the fact that the city of Skaneateles, N. Y., is served by a municipal plant, while the city of Cazenovia, N. Y., is served by a private plant. Apparently this fact did not affect the average majority endorsement in the slightest degree in either community to any appreciable extent whatever.

The preliminary Beyle-Parratt report gives another interesting general conclusion:

Note also, that in the case of all groups, the percentage who would endorse practices involving a degree of regulation greater than 70 is comparatively small. There are some in all groups who would go further; but the curves drop rather abruptly at about 70. In the other direction, the representations of majority endorsement drop distinctly in the case of all groups at about 45, to rise again between 35 and 30. This is a picture that is entirely plausible. Actual experience in the past, seems to have indicated that some of the earlier forms of regulation involving lesser degrees of intervention and regulation have proven to be acceptable parts of the total pattern of desirable official practice, while other forms have not survived in approval. In the case of all the groups, there are the same three gradations of regulation which were approved as acceptable parts in the pattern of desirable official action. Apparently there are three distinct barrages, of different degrees of official intervention, which those interviewed approve as necessary and desirable.

On the basis of these data, it appears that the vicinity of political conflict respecting what should be done by way of regulating

the electrical utilities should be somewhere around 70 on this scale. Those who would campaign for extension of the regulation would do well to press for requirements which are not too far beyond that point. Campaigns for further regulation of a degree just a little greater than 70 might receive unexpected support. Furthermore, those who are interested in the claims of the utilities would do well to accept much of the regulation which is just a little short of 70. It would be poor strategy, seemingly, either in advertising or in lobbying, to make a stand against requirements which scale between 45 and 70. Stubborn resistance in such a vicinity would apparently invite defeat.

THE report adds that the striking similarity of the four curves forces a conclusion that was not considered a possibility when the investigation was begun. This is chiefly to the effect that there is such a thing as a basic attitude shared in greater or lesser degree by the majority of our citizens in different localities. Getting some insight as to the nature and extent of this basic opinion is more important from the standpoint of the serious investigator of public opinion than a categorical answer to a specific question, such as "Do you favor the elimination of the holding company?" In the words of the Beyle-Parratt report:

It is that we have, at least in the areas and social circles represented by those interviewed, a distinct common pattern of fundamental understandings and belief respecting regulation of the electrical utilities. If this same pattern of curve should still hold on application of the instrument to other groups elsewhere, one might say that this is the "American" idea of what government ought to do about the electrical utilities. On the basis of data we now have, however, we can only say that those we have interviewed apparently have a common pattern of fundamental belief distinctly in mind.

What makes this conclusion most plausible is the fact that the several persons were asked to check a rather long list of statements; the list of statements did not contain any "warm" or "cold" propaganda words to guide uncritical prejudice; and the order of the statements as presented in the instrument was mixed so far as degree of regulation is concerned. Anyone who has had any experience at all with the checking of an involved list of points by as many as one hundred different persons can hardly fail to be impressed with the

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almost perfect uniformity with which the endorsements were made. The checking, too, was highly consistent as will be shown in the more detailed analysis of a following section. There must be some pattern of rather common and fundamental belief back of the specific endorsements to explain the unusual consistency.

SPACE, unfortunately, precludes an analysis of the extent of majority endorsement of the various regulatory propositions stated. Suffice it to say that little support was revealed for the

two extremes (Left and Right) in regulatory policy. The detailed analysis contained in the Beyle-Parratt report, however, merits the serious consideration of conscientious government regulatory officials, utility executives, and others interested in the subject generally.

Of course, the authors of this report concede that as it stands it has three limitations: (1) the limited sample of persons interviewed; (2) the limitation

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of the study to a single situation, and (3) the gaps in the original instrument. They feel that an investigation based on a broader sample would produce much more important findings. But enough has been revealed in this report to show the value of scientific method of approach in measuring public opinion. There is a great temptation to generalize on this subject. It is easy to say, for example, that regulatory policies are too complicated to be decided by the average man on the street, notwithstanding the fact that he is the one who must ultimately decide our regulatory policies through the ballot box. It is easy

enough to say that one section of the country is more radical on this subject than another, or that students are more radical than their elders.

All of these statements may be true; but how true or to exactly what extent true? These are the important questions that Professors Beyle and Parratt are attempting to answer by precision methods.

—E. S. B.

REGULATION OF ELECTRICAL UTILITIES: HOW MUCH? By Herman C. Beyle and Spencer D. Parratt. School of Citizenship and Public Affairs. Syracuse University. Syracuse, N. Y.

Is the Utility Issue Worn Out?

RECENT threats and counter threats passed in the city of Washington to the effect that the administration might carry the so-called "power issue" to the people as a national campaign election issue has caused a great many people other than utility executives to begin figuring out just whether this would be a politically smart move. So far, the Roosevelt administration certainly does not seem to have suffered any at the polls by reason of Mr. Roosevelt's pronounced antagonism to the private power industry as presently constituted. Some ardent supporters, such as Representative John Rankin of Tupelo, Mississippi, believe that the power issue has been an important if not the most important factor in the popularity of the New Deal. Other supporters of the administration are lukewarm to the idea of making the power issue a national issue in 1936. Seasoned Washington observers pointed out that Mr. Roosevelt's success at the polls so far has had very little to do in the public mind with his attitude on the power question. For this reason, they believe that Mr. Roosevelt cannot afford to depend too much on the power issue to the exclusion of more important matters.

Such an astute political campaigner as former Governor Alfred E. Smith of

New York once said that there was very little real substance to the power issue for popular campaigning purposes. He recalled how he had tried it once in New York state without success. He was elected governor at that time, but he felt that his campaign on the power issue had not helped him very much. Mr. Smith believed that the complexities of the problem forestalled public appreciation. He recalled how he used to have to interrupt an address to explain to his listeners what a "kilowatt hour" was.

ASIDE from the relative complexity of the issue, there is the question of whether the administration can really afford to point a finger of scorn at electric rates which have been decreasing constantly, when compared to the amount required for the cost of government—that is to say taxes, which have been increasing constantly. More recently the magazine *Fortune* set out to determine public opinion on the relative burdens of two kinds of service—government and utilities. The politicians are primarily responsible for the cost of the former. Many of them are undoubtedly seeking to make a popular record by forcing a reduction in the cost of the latter. Aside from the social

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and economic questions involved, that is to say, politically speaking, the *Fortune* survey decided that: (1) The power issue politicians would be proven right if there were found a great weight of resentment against utility rates; (2) they would be proven wrong if there were not such a resentment; and (3) they would be doubly wrong if the citizens were found to be angrier as a taxpayer than as an electric consumer. To measure these things, *Fortune* asked three questions:

1. "Do you regard your monthly electric bill as high, low, or reasonable?"

2. "Do you regard your monthly telephone bill as high, low, or reasonable?"

3. "Do you regard your yearly tax bill as high, low, or reasonable?"

From the persons interviewed having electric service, telephones, and tax bills the answers are as follows:

	Electric Bill Per- centage	Phone Bill Per- centage	Tax Bill Per- centage
High	40.8	39.8	49.9
Low	1.9	1.3	1.7
Reasonable	53.9	55.5	41.0
Don't know	3.4	3.4	7.4

In other words, the *Fortune* survey found out that a majority of people consider their utility rates reasonable, while a majority consider their tax bills high; and that the percentage of com-

plaints against government is about 10 per cent, higher than against the utilities. If the *Fortune* survey is fairly accurate the power issue politicians are surely steering a wrong course. Surprising enough, the people who were registered as satisfied with their light bills were not invariably those living in places where electric rates were low. In New York city, where there has been considerable agitation against the utilities, only a little more than a third of the people consider their rates reasonable. Yet in Atlanta, Georgia, where the rates are only a little less than in New York city, 85 per cent of the people were recorded as satisfied. More striking were the returns from St. Louis, Missouri, having one of the lowest rate schedules in the country, as compared with Beaumont, Texas, which has a relatively high rate. A proportion of customers recorded as satisfied in these two cities, was only slightly higher (65.7 per cent) in St. Louis than in Beaumont (62.9 per cent).

The *Fortune* survey blames the backward public relations policy for failure to cultivate good will, which it believes to be possible almost without regard to the particular rate level. The "promotional rate that gives the public something to look forward to" was especially commended.



Opinion	Prosperous Percentage	Upper Middle Class Percentage	Lower Middle Class Percentage	Poor Percentage	Negro Percentage
High—					
Electric bill	39.7	39.9	41.1	43.7	38.3
Phone bill	39.9	40.9	40.1	39.7	...
Tax bill	55.1	50.2	49.0	47.4	39.0
Low—					
Electric bill	2.8	1.7	1.9	2.1	..
Phone bill8	1.1	1.4	2.6	5.9
Tax bill4	1.1	1.8	3.6	2.4
Reasonable—					
Electric bill	55.5	54.9	53.4	50.4	54.6
Phone bill	56.0	54.7	55.3	53.5	82.4
Tax bill	40.5	42.7	40.7	37.4	51.2
Don't know about—					
Electric bill	2.0	3.5	3.6	3.8	7.1
Phone bill	3.3	3.3	3.2	4.2	11.7
Tax bill	4.0	6.0	8.5	11.6	7.4

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	Cities Over 1,000,000 Percentage	Cities 100,000 to 1,000,000 Percentage	Small Cities Percentage	Towns Percentage	Rural Percentage
High—					
Phone bill	47.0	47.6	32.2	36.7	35.8
Tax bill	59.6	62.9	52.4	49.0	40.3
Low—					
Phone bill	1.4	2.3	.4	.8	1.2
Tax bill	1.2	2.6	.4	1.9	1.7
Reasonable—					
Phone bill	48.1	47.6	63.1	57.9	60.0
Tax bill	28.8	27.9	35.2	41.1	52.7
Don't know about—					
Phone bill	3.5	2.5	4.3	4.6	3.0
Tax bill	10.4	6.6	12.0	8.0	5.3



THE tax figures of the *Fortune* survey require some qualification because it was stated that 39 per cent of the poor and 63 per cent of the negroes interviewed thought they had no taxes. Public opinion as to electric and phone utility rates compared with tax rates in various economic levels of population interviewed were given in the *Fortune* survey (see table, page 161).

With the exception of the negroes these comparisons show an astonishing uniformity of opinion in all economic levels on each of the subjects. It was stated that "the few negroes who can afford the luxury of the telephone and the few who have taxable property apparently believe, in the majority at least, that they are not paying too much for what they have." The same information in terms of the size of communities is as shown in above table:

FROM these results, the *Fortune* survey forecasts that taxation is likely to become a more popular issue than utility rates, to a degree that it is nearly equal among all economic levels. Add to this the fact that satisfaction with both tax rates and phone rates is particularly concentrated in the larger cities and not in small towns or rural areas and it would appear that if the administration should "go to the country" on the utility issue, the opposition will almost naturally be forced to counter with the tax issue. The ambitious tax proposals of President Roosevelt now being debated by the Congress tend to support the conclusion that the tax issue will loom as a counterbalance to the public utility issue.

—F. X. W.

PUBLIC SERVICE VS. TAXATION. Parts I and II. *Fortune Magazine*, June and July, 1935.

Notes on Recent Publications

ECONOMICS OF TRANSPORTATION. By D. Philip Locklin. Business Publications, Inc., Chicago, Ill. 1935. 788 pages.

JONES' ESTIMATING TABLES. By Ernest F. Jones. Domestic Engineering Publications, 1900 Prairie Avenue, Chicago, Ill. 1935. 68 pages. \$2.00.

THE BOOM BEGINS. By L. L. B. Angas. Simon and Schuster, Inc., 386 Fourth Avenue, New York, N. Y. 1935. 96 pages. \$2.00.

THE CONSUMER SEEKS A WAY. By Clark Foreman and Michael Ross. W. W. Norton & Co., Inc. New York, N. Y. \$2.00.

This book, dedicated to Professor Charles A. Beard, is an attempt to portray in a simplified manner the problems of the typical small consumer who has lost his job. In the process of the story there is evolved a theory for a national policy based upon the interest of the consumer. A happy ending is arranged when the hero gets a job with the TVA in Knoxville and is regenerated by the great social experiment.

The March of Events

House Revolt Subsides on TVA Amendments

AFTER eliminating every major provision objectionable to President Roosevelt, the House of Representatives on July 11th passed legislation to broaden the powers of the Tennessee Valley Authority. The bill was sent to the Senate for concurrence or conference on minor amendments added by the House.

The Tennessee Valley Authority bill was written to bolster and broaden the scope of the Authority, but had been drastically rewritten by the House Military Affairs Committee before it came to the floor of the House. One by one, however, the House voted down the limitations on the measure which had been written in by the Military Affairs Committee, so that the measure as finally passed was substantially in the same form as it was when it passed the Senate.

The limitations voted down were as follows: (1) a requirement that the Tennessee Valley Authority must sell power or chemicals at not less than cost after July 1, 1937. (Voted down 98 to 67.) (2) To place the expenditures of the Tennessee Valley Authority under the absolute control of the Comptroller General. (Voted down 162 to 120.) (3) A prohibition against the Authority constructing power lines which parallel existing private lines. (Voted down 237 to 145.)

By a voice vote the House also voted to allow the Authority to decide whether private interests may build dams or pertinent works on the Tennessee river or its tributaries.

Utility Bill to Conference

BY an abrupt change of tactics, the Senate on July 10th, sent the hotly disputed public utility bill to conference and instructed its conferees to insist on the provision desired by President Roosevelt to outlaw "unnecessary" holding companies in seven years.

There was an advance understanding, however, that a disagreement with the House on this section would result in a request to the Senate for "further instructions" by the conferees.

The administration had fought to block concurrence of the Senate in the House version of the bill which had eliminated the section providing for dissolution of all holding companies by 1942 except one for each regional system. This section had been insisted upon by three decisive votes in the House.

Senator Dieterich (D.) of Illinois, abruptly withdrew his motion to instruct the conferees "not to insist" on the abolition provision, and the conference proposal went through without a record vote.

Immediately Vice President Garner appointed as Senate conferees Chairman Wheeler (D.) of Montana, of the Interstate Commerce Committee, who had charge of the bill in the Senate; Barkley (D.) of Kentucky; Brown (D.) of New Hampshire; White (R.) of Maine, and Shipstead, Farmer-Labor, of Minnesota.

Lobby Probe

THE House of Representatives, July 10th, voted for \$50,000 to prosecute and expand its investigation into alleged lobbying for and against the utilities bill. The Senate Audit and Control Committee at the same time approved a request for \$50,000 for a general Senate investigation of all lobbying in the current session of the Congress.

Prior to an authorization of the lobby probe appropriation, Representative John E. Rankin of Tupelo, Mississippi, made a bitter attack on the floor of the House against the conduct of the preliminary investigation by the House Rules Committee of charges by Representative Ralph O. Brewster of Maine that attempts had been made to intimidate him by administration lobbyists in his vote on the death sentence clause of the holding company bill.

Representative Brewster had specifically accused "brain trust" Thomas G. Corcoran, Reconstruction Finance Corporation attorney, of threatening to withhold Federal government support of the Passamaquoddy project at Eastport, Maine, if Brewster failed to support the administration. Corcoran, testifying before the House Rules Committee, denied that he had made attempts to intimidate Brewster, but alleged that Brewster had offered to avoid voting one way or another on the issue. Upon hearing this testimony, Representative Brewster declared that Mr. Corcoran was a "liar."

Concerning general lobbying for the bill, Corcoran denied he had approached House Interstate Commerce Committee members during consideration of the measure. He said he saw only two members of the House during this period.

He said they were Representative Samuel B. Pettengill (D.) Indiana, and Representative Carl E. Mapes (R.) Michigan.

Mapes questioned Corcoran closely about earlier testimony that he met with Wisconsin

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and other congressmen during the holding company bill fight.

Corcoran denied he had met Chairman O'Connor of the Rules Committee during the holding company fight.

Corcoran said that Attorney General Cummings had not passed on the constitutionality of the holding company bill.

Democratic committee members tried to rule out this testimony as irrelevant but Mapes said it is "necessary to know if this is part of the propaganda by the Justice Department."

Mapes referred to Corcoran's "peculiar" po-

sition in the government, but the young lawyer insisted he saw no impropriety in the "Quoddy-utility" situation.

Corcoran admitted under questioning by Representative Frederick R. Lehlbach (R.) New Jersey, that he had written a letter signed by Representative John E. Rankin (D.) Mississippi, urging congressmen to support the "death sentence" provision of the proposed legislation.

Corcoran said that this was the same letter which Brewster, he claimed, had agreed to sign but later refused.

Alabama

Utility Taxes Hiked

THE Alabama legislature has adopted a \$24,000,000 general revenue bill calling for increased taxes on incomes, telephone companies and chain stores, and a reduction in automobile license tags. The gross income tax on telephone companies was increased from 2½ per cent to 4 per cent, and the taxes on income and chain stores were raised approximately 50 per cent.

Municipal Plant Injunction Refused

JUDGE C. P. Almon in Colbert County Circuit Court denied an application of the Alabama Power Company for a permanent injunction against the municipalities of Tuscumbia and Sheffield, which would have restrained the communities from borrowing funds from the Public Works Administration to finance municipal electric distribution systems.

In denying the plea, Judge Almon ruled that the utility had no right to file the bill of

complaint and that the cities had a right to borrow Public Works funds. No announcement was immediately made, but attorneys for the Alabama Power Company were expected to appeal the decision to the Alabama Supreme Court.

Both Tuscumbia and Sheffield are under the Federal injunction granted last December by District Judge Grubb not to borrow funds from the Tennessee Valley Authority or enter a contract with the latter to buy electricity.

Debt Limit Enforced

ALABAMA towns cannot pass their constitutional debt limits with a bond issue to get Public Works Administration funds, according to a majority ruling of the supreme court in the case of the City of Opp v. Donaldson, which affects several other communities with similar plans.

The city of Opp sought to issue \$111,000 in bonds for a sewage disposal and waterworks system. The increased indebtedness was to be paid off from revenues from the project.

Arkansas

Promotional Rates Studied

FOLLOWING a hearing before the state department of public utilities, the principal electric power companies operating in the state appointed a committee of rate experts to study proposed "objective" or "inducement" rates, designed to increase materially the use of electric current without an undue increase in the total bill paid by the consumer.

The committee met with members of the commission to outline a procedure for making

the study which when completed will be used as a basis for the proposed rates.

Rural Lines Authorized

THE state department of public utilities issued a certificate of convenience and necessity to the Arkansas Power and Light Company to construct rural electrification lines in Conway, Faulkner, White, Boone, Newton, Saline, and Hot Spring counties.

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California

Franchise Extension

IN order to avert the responsibility of a breakdown in gas service, Superior Court Judge Warne has suspended until November 12, 1935, an injunction that would have otherwise required the Los Angeles Gas and Electric Corporation to apply for a franchise before July 12, 1935, to operate in the city of Los Angeles.

The court's action was taken when attorneys for the company pointed out that it was impossible for the gas company to obey the injunction before July 12th without closing down the entire distribution system, not only within the city but elsewhere, by reason of the fact that the system was operated as a single unit.

The gas company has not applied for a franchise because under the city's charter such an application would require the company to agree to sell its plant and system at a price which the company claims would result in confiscation.

Name of Dam Questioned

HOOVER dam received the professional acclaim of almost 1,000 members of the American Society of Civil Engineers meeting at Los Angeles early last month. However, in view of the fact that the name Boulder dam had been changed to Hoover dam in honor of the recent engineer President, regret was expressed by J. B. Lippincott, one of the prin-

cipal speakers, that the President Roosevelt administration insists on referring to the 700-foot-high structure as Boulder dam.

Mr. Lippincott pointed out that when former President Hoover had been Secretary of Commerce, he had worked out to a successful conclusion the epochal Seven States Compact of 1922, in which the groundwork was laid for the "world's largest water storage plant" in the Colorado river basin.

Railway Merger

By unanimous vote the San Francisco supervisors set in motion machinery for the city's acquisition of the Market Street Railway lines and the California Street Cable properties for merger with the Municipal Railway system. The proposed merger is in anticipation of greater transportation needs following completion of the San Francisco-Oakland bridge.

The action taken by the supervisors was the approval of a resolution introduced by Supervisor Franck H. Havenner, which called on the city public utilities commission for an immediate report to be used as a basis for subsequent legislation to consolidate the system. Mr. Havenner pointed out that San Francisco is already equipped to meet the water requirements of a population of 4,000,000, and has the climate to attract such a population and the space to accommodate it, but lacks only properly reorganized and efficient transportation service.

Florida

Refuses to Investigate

GOVERNOR Dave Sholtz sees no reason to make an investigation of the alleged 24-year delay on the part of the state railroad commission in handing down a decision on

the complaint by the city of Miami for a reduction in local telephone rates.

Replying to demands by Miami city attorneys, Governor Sholtz stated that he expected the commission to act at an early date, which was taken to mean before August 1st.

Illinois

Four Million Dollar Jackpot

THE Illinois Bell Telephone Company, with \$3,789,812 in nickels and dimes, sought 2,100,000 persons who were entitled to share in the jackpot. The company reported to the Federal district court that it had refunded \$15,145,910 to 876,494 customers under the

United States Supreme Court decision last year, which ordered the refund on certain classes of coin box service. However, more than 2,000,000 persons are still entitled to share.

The cost to the telephone company of refunding the money was estimated at more than \$2,000,000.

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Utilities to Absorb Tax

CHAIRMAN Benjamin F. Lindheimer, of the Illinois Commerce Commission, announced that utility companies throughout the state would be compelled to absorb the new 3 per cent sales tax which went into effect July 1st, "except in cases where the burden on the companies would be unreasonable."

Under the commission's ruling no utility company would be permitted to pass the tax

on to its consumers except by and with the consent of the commission. Such consent would be granted or refused, depending upon whether the particular utility company could with justice absorb the tax in its available revenue.

Notwithstanding the commission's ruling, some Illinois utility companies were reported to be preparing schedules whereby consumers would be required to pay the amount of the tax.

Indiana

Town Loses Rate Plea

THE hopes of the town of Paoli for lower wholesale electric rates were dashed by a ruling of the Indiana commission dismissing the town's complaint against the Public Service Company of Indiana. The complaint originally was made not only by Paoli but by a number of other small communities which

sought wholesale electric energy from the defendant utility company.

The company offered a new rate schedule which was accepted by all other petitioners by Paoli. The commission's finding, written by Chairman McCart, pointed out that the utility's offer would afford substantial reductions for the town and constitute a reasonable rate.

Iowa

Light Plant Halted

JUDGE E. G. Albert has issued a state supreme court stay order temporarily restraining Coon Rapids, Iowa, from proceeding with the construction of a \$114,000 municipal electric power plant. The order was issued on petition of attorneys for individual plaintiffs, who sought unsuccessfully to have the

town enjoined in the lower courts. Hearing in the matter was set for the October term.

The petitioners alleged that a contract between the town of Coon Rapids and the Fairbanks-Morse Construction Company for erection of the proposed plant was not legally entered into, chiefly on the claim that there was no competitive bidding at the time the contract was let.

Kentucky

Power Rates Cut

THE Kentucky Utilities Company has proposed a reduction of rates to the city of

Cynthiana which was reported to save an average of 30 per cent on domestic and commercial power costs. The minimum rate will remain \$1 a month.

Maine

Quoddy Dam Started

VICE President Garner, seated at a desk in the city of Washington, D. C., pressed a button which released the first dynamite blast in the construction of the giant Quoddy tidal power project at Eastport, Me. The formal

opening exercises were held July 4th. Orders were issued by Major Philip B. Fleming, Army engineer in charge of the construction, for the clearing of an 80-acre tract west of the city of Eastport for a community of 250 homes to house 400 workers.

Envisioned by Dexter P. Cooper, inter-

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nationally known engineer eleven years ago, the vast tidal trap contemplates harnessing the

28-foot tides for the purpose of creating electric power.

Massachusetts

Gas Rate Increase Fought

AN attempt by the Boston Consolidated Gas Company to revise its rates so as to increase the charge to small consumers, while decreasing the charge to large consumers, was met with vigorous protests from eleven communities in the greater Boston area, led by Governor James M. Curley.

The governor's advisers estimated that the

new rates would increase the bills of some consumers as much as 25 per cent. The company on the other hand claimed that the new rates were necessary because of the rapid reduction in income which the company experienced during the last two years.

It was anticipated that in view of the opposition the state department of public works would not allow the new schedules to become effective August 1st, as originally requested.

Michigan

Gas for Detroit

MAYOR Frank Couzens refuses to give up hope that in some way or another the motor city can obtain some natural gas supply. Early this year it was hoped that the Texas legislature would create a Texas authority for the construction of a pipe line from the Texas Panhandle to Detroit via St. Louis, with Federal financing. The Public Works Administration smiled on the plans but the Texas legislature convened and adjourned without taking any action.

Now, Mayor Couzens has opened negotiations with the Columbia Gas and Electric Company with a view to bringing natural gas into Detroit through the agency of a private company. Following preliminary conferences, it was reported that if the company is satisfied that an ample market exists in Detroit for natural gas, and if the company can make satisfactory arrangements for distributing the product in Detroit, there will emerge a plan to extend the company's lines to Detroit at a cost of about \$9,000,000.

The mayor has insisted that the city would

vigorously oppose any plan of bringing in natural gas unless the gas were distributed by the city government. The mayor was also dickering with the Texas Panhandle Gas Co. which displayed some interest in the proposition. Meanwhile members of the state legislature were considering the feasibility of getting a natural gas supply for Detroit from Michigan's own gas fields.

New Commission Members

GOVERNOR Fitzgerald has announced the appointment of Ivan E. Hull, of Grand Rapids, and Emerson R. Boyles, of Charlotte, as members of the public utilities commission. Mr. Hull is a member of the Republican State Central Committee and chairman of the Kent County Republican Committee. He will replace Commissioner James B. Balch of Kalamazoo.

Commissioner Boyles was a former probate judge and later deputy attorney general. He will replace Commissioner Robert H. Dunn of Muskegon.

Mississippi

Rate Case Nears End

ATORNEYS for the city of Meridian and the Mississippi Power Company completed arguments in the case in which the city is seeking to dissolve a restraining order preventing the city from enforcing an electric

rate reduction of approximately 40 per cent.

The hearing was before Special Master S. P. Clayton of Tupelo, in Federal district court.

Written briefs on authorities cited in the arguments were to be filed during the month of July.

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Missouri

City Hydro Plant Urged

CONSTRUCTION of a municipal hydroelectric plant on the Gasconade river, which would supply the electricity needs of the city of St. Louis and leave 105,000 kilowatt hours a year for sale to private utilities serving in that territory, was proposed to Mayor Dick-

mann and the board of aldermen by an engineer in charge of the construction of the Union Electric Light and Power Company's hydro plant which is located near Bagnell, Missouri.

The Gasconade River Power Company has made all the necessary surveys and obtained a government permit.

Montana

Gas Utility a Common Carrier?

AN application filed with the Montana commission by the Montana Eastern Pipeline Company of Billings asks the board to compel the Montana-Dakota Power Company to perform the duties of a common carrier of gas in the eastern Montana field. The Billings

company petitioned the board to assume jurisdiction over the gas pipe line or lines extending from the Baker-Glendive gas field to various eastern states communities, and to compel the owner, the Montana-Dakota Power Company, to publish a tariff for the transportation, as a common carrier, of natural gas.

Nebraska

Court Stay Discussed

At a meeting of the board of directors of the Platte valley public power and irrigation district early in July, a temporary injunction granted by the district court of Lincoln county against entrance upon the land of Camilla Bell Shelby, who is a resident of the state of California, was the subject of much discussion.

A particularly difficult problem was present-

ed to the board by this case in view of the fact that the land in question had already been contracted for. It was the unanimous opinion of the directors that its counsel should proceed to take necessary steps to have the injunction terminated as soon as possible, in view of the fact that construction work on the project might otherwise be hampered to such an extent as to throw hundreds of men out of work, and entail damages running into hundreds of thousands of dollars.

New York

Subway Car Contracts

CONTRACTS for building 500 subway cars for New York city's independent system were awarded by the board of transportation. The cost to the city will be \$19,226,800.

One contract was to the American Car and Foundry Company for 250 cars to cost \$9,613,000. The Pressed Steel Car Company received a contract for another 250 cars at the same figure, but with the stipulation that 150 be manufactured by the Pullman Standard Car Company at a cost of \$5,789,400. Work done by the Pressed Steel Car Company will cost \$3,824,000.

Each car will cost the average of \$38,453.60 and will be used on the sections of the independent system that are scheduled for opening late in the fall or early next spring.

Utility Tax Suit

NEW York city's tax of 1½ per cent on the gross income of public utility corporations under the state law of 1934 (upheld last March by the appellate division of the supreme court) was attacked on new grounds by the New York Telephone Company in a complaint served on the city comptroller to recover \$1,533,781 paid under protest in taxes.

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The utility's complaint attacked the constitutionality of the municipal law of 1933, originally imposing the tax, and the validity of the Buckley Act, passed by the state legislature in 1933, to permit the city to impose the tax.

Municipal Plant Snag

MAYOR LaGuardia's proposal to borrow \$45,000,000 from the Federal government to construct a municipal power plant in New York city was definitely turned down

by the city's board of estimate following a public hearing. The mayor announced that he would carry on the fight by submitting a proposal to the municipal assembly calling for a referendum on the project at the next general election. The municipal assembly is composed of the board of estimate and the board of aldermen, sitting as an upper and lower house.

The outlook for favorable action on Mayor LaGuardia's proposal to the municipal assembly was reported to be very much in doubt.

North Carolina

Durham Rates Cut

STANLEY Winborne, state utilities commissioner, announced for the Durham Public Service Company rate reductions for commercial users estimated to save customers \$21,000

a year. The reduction will run up to 17 per cent per customer, on the basis of present bills.

The new rates were retroactive so as to make them effective as of July 1st. The Durham Company had already reduced its rates for domestic consumers.

Ohio

City Plant Improved

MAYOR Worley's plans for improving the municipal light plant in the hope of increasing revenue to such an extent as to finance any normal functions of the city government were revealed in the city's 1936 budget totaling \$6,342,040. The budget request for 1936 was to be filed with the city council.

A total of \$3,500,000 was requested for municipal operation purposes in 1936, as compared with \$3,025,566 during the current year. The reason for the increase, according to the mayor, was the fact that approximately \$300,000 has been added to provide for extensions and additions to the municipal light plant.

By building up revenue of the plant, the city's chief executive hopes to increase the funds available from sources other than taxation and thus make up to some extent the loss of normal tax revenues.

City Plant Restrained

THE state court of appeals of the fifth appellate district granted the Ohio Power Company a permanent injunction against proposed construction by the city of Coshocton of a steam generating plant in connection with a \$164,000 Public Works Administration project. The court of appeals decision reversed a lower state court verdict and will probably be appealed.

Oklahoma

Gas Franchise Approved

WITH the total vote held to 11,706 by lack of interest, Oklahoma city voters approved, at a special election held June 28th, a 25-year franchise for the Oklahoma Natural Gas Company by a margin of 2,242 votes. The total vote was approximately half of that which turned out in the fall of 1931, when the

gas company was denied a franchise by a vote of 13,198 to 9,000. It was reported to be the lightest ballot in the city's history, notwithstanding a vigorous campaign by civic organizations opposing the granting of the franchise.

The campaign against the franchise included a novel feature in the form of a "chain-phone-call" system, whereby women supporters of the

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antifranchise movement called five friends on the telephone and asked their vote, together with the promise to call five additional friends for the same purpose.

Said Delbert M. Hill, campaign manager of the antifranchise movement, on the eve of the ballot: "We are going strong and I don't see any reason why we can't win." Mr. Hill found a good reason the following day.

City Plant Restrained

THE District of Columbia Court of Appeals granted a temporary injunction, upon suit

by the Oklahoma Utilities Company, restraining the Public Works Administration from "granting, transferring, or loaning" funds to the city of Hominy, Okla., for the purpose of constructing an electric distribution system. The injunction was granted pending a final hearing on the merits of the suit October 7th.

With the PWA funds the city planned to construct its own system, throwing the present power plant out of existence. The company's suit had previously been dismissed by the District of Columbia Supreme Court and an injunction motion in the court of appeals followed.

Oregon

Utility Escapes Budget Control

THE Portland Electric Power Company is a railroad company and not a public utility. Therefore, the state commission has no jurisdiction over its budget operations, according to an opinion handed down by State At-

torney General Van Winkle. The basis for the attorney general's ruling was the fact that the company owns railroads operating between Portland and Oregon City and Gresham.

The ruling was made upon request of state utility Commissioner Frank C. McColloch.

South Carolina

Rural Power Plans

MEMBERS of the South Carolina Rural Electrification Authority announced that they had tentatively approved a \$4,429,190 rural electrification program for South Carolina, provided suitable power rates and Federal funds for construction can be obtained.

Governor Olin D. Johnston, at whose office the Authority met, said its first move to push the big program would be to confer with the state public service commission on negotiating low wholesale electric rates with private power firms which would have to supply the current at least at the outset of the project.

The governor and other members of the commission indicated that no permanent staff would be set up meanwhile since a \$20,000 appropriation for the Authority must be repaid.

Johnston, Comptroller General A. J. Beatie, and State Treasurer E. P. Miller, the executive committee of the Authority, reported that expenses of the survey were met from ERA funds. The governor stated:

"Some four projects are already approved and in Washington and the Authority con-

sidered and tentatively approved 552 projects recently. We discussed the procedure for presenting them at Washington."

Dan T. Duncan of Greenwood, a member of the Authority, and an engineer on several public power projects, explained that officials at Washington had taken an informal position that power for rural electrification projects would have to be available at one cent a kilowatt hour.

Some municipalities in South Carolina now pay as low as 1.3 and 1.4 cents a kilowatt hour, he said, with the power companies furnishing substations and line connections.

The rural electrification lines would tap power lines without construction cost to the companies, he added, and the state act provides a single meter charge by each firm to aid in keeping power costs down.

Results of the survey indicated that 15,114 customers along 4,550 mile of proposed transmission lines could be served under the program.

H. M. Thomas, director of the rural electrification survey, said the guaranteed revenue under the program was \$451,069 and the estimated revenue \$600,687 a year.

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Tennessee

City Studies TVA Power Contract

CITY officials of Memphis have begun drafting the contract that may result in Memphis becoming an electric power customer of the Tennessee Valley Authority. The group headed by Mayor Watkins Overton, including the city water commissioners, lawyers, and engineers, studied terms of a contract to be submitted to the Tennessee Valley Authority. Roy Husselman, Cleveland consulting engineer who recently made a survey of the city's electrical system and recommended TVA power, conferred with the officials.

The Tennessee Valley Authority had submitted its standard contract to Memphis and this was used as a preliminary draft for making revisions before the city sends back to the TVA its proposal for a final Memphis-TVA contract. The contract was said to be the same submitted to Knoxville and Tupelo, Miss.

Private Company Construction

THE Tennessee Public Service Company has started construction of a new rural

electric line less than 15 miles from Norris dam, which the Tennessee Valley Authority is building on the Clinch river. The line was said to be the first of an extensive rural network which the company may build.

TVA Shift Denied

LATE in June the *Chattanooga News* created a stir in Tennessee journalistic circles and elsewhere by a front page editorial heralding a campaign for the removal of the Tennessee Valley Authority's general offices from Knoxville to Chattanooga. The editorial pointed out that Chattanooga was more centrally located with respect to the field of operation of the Tennessee Valley Authority. The Knoxville papers immediately flared up in protest.

Tennessee Valley Authority officials, when interviewed, declared their ignorance of any proposed change in TVA offices. Later on the *Chattanooga News* apparently dropped the subject. During the discussion it was pointed out that under the Federal statute creating the TVA the official offices of the Tennessee Valley Authority could be located neither at Knoxville nor Chattanooga, but were required to be situated at or near Muscle Shoals, Ala.

Texas

Conservation Pact

THE railroad commission announced that the first definite agreement under the recently enacted gas conservation act had been effected in the Agua Dulce field in Nueces county.

Chief supervisor Stanberry of the oil and gas division, said an agreement between the Nueces Refining Company and the United Gas Company for stripping of 10,000,000 cubic feet daily production prior to pipe-line transmission had been approved in a district court at Corpus Christi, Tex.

Virginia

State Joins Utility

THE state of Virginia, defending "state rights," has become an ally of the Appalachian Electric Power Company in a controversy between the utility group and the Federal government. The power company sought, through injunction proceedings, to prevent the licensing of its plant on New river, near Lynchburg. Virginia, defending

its authority over non-navigable streams, has entered the case on the side of the power group.

That both the company and the state might proceed in harmony, John L. Abbott, Lynchburg counsel for the company, has been in Richmond for conferences with Attorney General A. P. Staples. It has not yet been decided whether the state will enter the case as a defendant or as a "friend of the court."

Washington

City Plans Network

PLANs for taking over the holdings of the Puget Sound Power and Light Company and all other private companies operating in western Washington, in order to convert that area into a publicly owned power zone, were discussed at a recent meeting of the Home Rule Power League in the city of Tacoma.

Advocates of the plan said eastern investment bankers would be willing to finance the purchase, roughly estimated at \$75,000,000. The Home Rule power movement developed from a proposal made by J. D. Ross, Seattle plant manager, to merge the Puget Sound properties with the Seattle municipal system.

Bellingham City Plant Delayed

THE second attempt of Mayor B. E. Hanning of Bellingham to bring to a head his plan for the city to go into the municipal light and power business by means of an election to authorize the acquisition of properties of the Puget Sound Power & Light Company was balked at a committee-of-the-whole session of the city council on July 11th, when the mayor's appointment of three appraisers for the acquisition was held up and no action taken after a discussion by the councilmen lasting several hours.

Wisconsin

Gas Rate Increase Sought

A \$467,000 a year increase in rates other than for house heating and wholesale service was asked by the Milwaukee Gas Light Company in a petition to the state public service commission which the commission announced it would investigate.

As far as can be determined from the commission's records, this is the first request by a major utility for a rate increase since 1930, when the Wisconsin Telephone Company asked a \$173,000 increase in Madison telephone rates and precipitated a statewide investigation of the company.

The Milwaukee increase would average 9 per cent in present rates, the commission stated.

Bargain Rates Approved

APPROVAL of bargain rates for increased use of home electricity has been for some time the object of the state public service commission. Some months ago it outlined a statewide plan for reduced "promotional" rates. Subsequently the commission approved rate schedules drafted along similar lines by four Byllesby companies: the Wisconsin Public Service Corporation, the Northern States Power Company, the Menominee and Marinette Light and Traction Company, and Midland Public Service Company. These companies serve one third of the Wisconsin area.

The plan provides that any customer who

used less than 30 kilowatt hours a month last year and increased his consumption this year will pay a bill equal to the bill of the corresponding month last year, plus a cross-over rate of 2 cents for each additional kilowatt hour used. However, where a customer's bill equals what the bill would be under the low-cost schedule, he will be billed entirely under the low-cost schedule thereafter.

City Plant Aid Beaten

THE state senate by a vote of 18 to 12 killed a bill which would have placed upon private utilities the burden of proof to establish the fact that public convenience and necessity required their continued operation, after a community had voted acquisition of the system.

The bill was said to be designed to aid the city of Mt. Horeb to acquire local privately owned utility property.

City Bus Plan Killed

THE right of the city of Madison to acquire the privately owned bus transportation system operating in that community, in the event that service became inadequate, was denied by the state senate by a vote of 16 to 8. The bill was introduced in the city's behalf to extend to municipalities the same right of acquiring bus systems as they now have over trolley car service.

The Latest Utility Rulings

Commission Control of Accounting Restricted

ORDERS of the New York commission establishing accounting requirements for public utilities have been declared invalid in certain respects, and the orders have been remitted to the commission by the appellate division of the supreme court.

The commission is authorized by law to prescribe uniform methods of keeping accounts, records, and books, but, in the opinion of the court, this statute does not authorize the commission to prescribe "uniform methods of management of the business of privately owned corporations."

With respect to capital accounts, Presiding Justice Hill, speaking for the court, declares that the commission cannot constitutionally require that losses which have not been suffered be shown on the books. If, as has been said by the United States Supreme Court, the actual cost of the property—the investment the owners have made—is a relevant fact, a corporation cannot be compelled to make entries upon its books calculated to conceal such relevant fact. He continues:

The petitioners argue, and with high judicial authority, that the books of a utility corporation are not kept solely for the information or benefit of the commission. That stockholders, bond owners, the investing public, and ratepayers are interested;

also that corporate financing is done upon the basis of book values.

In accordance with these principles the court holds that the commission cannot require that a part of the purchase price of property be transferred from fixed capital account to a suspense account from which it is to be charged off when directed by the commission; that the commission cannot require each corporation to adopt the straight-line depreciation method in connection with the setting up of depreciation reserve, which might require depreciation reserves not in harmony with the actual condition of the property; that the commission cannot require capital stock expenses, including expenses for taxes, printing, legal service, and underwriting to be charged off from surplus; and that the commission cannot require regulatory commission expense to be placed in a suspense account later to be distributed under authority of the commission, thus keeping such items out of operating expense until commission permission is obtained.

In regard to an objection to provisions as to a perpetual inventory, the court points out that direct authority for this requirement has been given by the legislature. *New York Edison Co. et al. v. Malbie, et al.*



Jurisdiction over Intercorporate Contracts

THE New York commission, after investigation, ordered that certain companies should not make further payments under service contracts to affiliates and make further charges in accounts of fixed capital and operating expenses on account of such payments, unless such charges were entered in the

account of profit and loss to be borne directly and solely by the stockholders.

The appellate division of the supreme court has sustained this determination, holding that the commission had jurisdiction to enter the order; that it did not unduly interfere with management; that the companies, by failing to produce

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evidence, had lost their right to question the reasonableness of the order; and that the order, dealing only with bookkeeping, did not amount to an attempt on the part of the commission to interfere with and to disapprove the service contracts in question.

Another provision of the order, however, was held invalid because it prohibited the making of an amendment or extension of any existing service contract or agreement with an affiliated corporation until such amendment or extension should have been submitted to

and approved by the public service commission.

The court held that this was beyond the power of the commission, since the statute provided only that such a contract should not be effective unless first filed with the commission. The statute did not prohibit, or authorize the commission to prohibit, the making of such service contract, although the commission has power to inquire into the cost thereunder. *New York State Electric & Gas Corp. et al. v. Public Service Commission of New York.*



Rural Extensions by City

THE Arkansas Department of Public Utilities has authorized an extension of rural electric lines by the municipal light and power plant of the city of Osceola notwithstanding objections by the Arkansas-Missouri Power Company. The extension is made under a law passed in 1935 authorizing municipalities to extend service into contiguous rural territory.

The commission found that the company had refused an extension to one applicant and thereby forfeited any right it might have had to object to service being supplied by the municipality. It was also found that the company had not offered reasonable terms for service to a county farm. A contention by the company that the revenue from the

proposed extension by the city would be insufficient to cover all charges and costs was not supported by the production of testimony. The commission said:

When a municipality, owning facilities for supplying a public service, proposes to go into rural territory to serve customers that may be claimed by a privately owned utility which has refused to serve the customers, or to serve if not at prohibitive rates, at least at exorbitant rates, when it could, and later proposes to serve such customers at the same rates at which the municipality has contracted to supply the service, the public interest demands that this Department permit the municipality to have the fruits of its labor and effort.

Re Osceola Municipal Light & Power Plant (Docket No. 25).



Municipality Has Right to Earn Profit

THE New York Supreme Court, in granting a stay against a commission rate order, on application by the city of Boonville, pending review by the appellate division of rates fixed for the municipal electric plant, announced the view that a municipality is entitled to a fair return upon its property which is devoted to the public use for the purpose of supplying electricity to customers.

This rule has been announced in other

states, but the question had not previously been decided by the courts in New York, although in some of the earlier New York decisions the principle was recognized that a municipality in operating a public utility was engaged in a business enterprise rather than the exercise of a governmental function. In fact it had been said in such a case that a subway operated by a city was an enterprise through which money might be "made or lost," the same as if it were

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owned by an ordinary railroad corporation. Justice Schenck, in granting the stay, said:

The money for the original construction of the Boonville plant was necessarily raised in the first instance upon the credit of the taxpayers of the village. If a loss had occurred, the taxpayer would be called upon to sustain such loss. If that be so, is there any logical reason why in the event of a profit that such profit should not be used for proper municipal purposes, thereby relieving, to some extent at least, the burden of taxation? The advancement of a proposition that in the event of a deficit the taxpayer must make good the loss but in the

event of a profit he shall not be allowed to share therein, does not commend itself to me. No one will maintain that the operation of a municipal electric plant is a governmental function for no one is required to accept electric service unless he so desires. A taxpayer has an interest in a municipal plant similar to that of the shareholders in a plant owned by a private corporation and it would seem that the business of supplying electricity by a municipality to its consumers should be dealt with in the same manner as that of any private corporation and the cost of operating the plant cannot be made the sole basis for rates.

Boonville v. Maltbie et al.



Utility Must Continue Free Servicing

THE Missouri commission has ordered a gas utility to continue servicing customer-owned appliances or equipment without charge. The company had notified customers that it would make a charge of 75 cents for each call made by a company employee to a customer's premises for the purpose of servicing appliances or equipment and that it would charge for material used and extra labor.

The commission observed that in fixing rates it had allowed as an operating expense approximately \$125,000 for servicing such equipment with the belief that servicing would be continued. The company, it was said, now proposed to eliminate this item from its operating expense and shift it to its customers. The result of the change was said to be a reduction of operating expense and a corresponding increase in net return.

A representative of the company stated that conditions were not the same as when the rate case was decided and that in his opinion the action of the company would not result in an excessive return, but the commission said that the only

way to determine the accuracy of his judgment was another rate case including another audit, and the commission did not think it was a reasonable time to entertain another valuation and rate case when the rates it had recently fixed were under suspension pending an appeal and an opportunity of the courts to determine whether they were proper. The commission said:

It is contended by the company that the performance of the acts which constitute the service, and the charges therefor, now under consideration, are not to be classified as utility business and hence are not subject to our control. We are cited to a ruling of this commission so holding (*Re St. Louis County Gas Co.* [1919] 7 Mo. P. S. C. R. 130). Other state commissions have held likewise. However, under the peculiar facts in this case we think it is evident that the action of the company in ceasing to give the service under consideration, eliminating the expense thereof from its operating expenses and in effect transferring that expense to its customers, is one affecting the rates, charges, and practices of the company, which, under the law is subject to our control.

Re Laclede Gas Light Co. (Case No. 8945).



Merchandising Costs and Unnecessary Expenses Eliminated in Rate Case

THE Massachusetts Department of Public Utilities disapproved a proposed increase in gas rates where the earnings, after elimination of certain ex-

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penditures, would amount to $6\frac{1}{2}$ per cent on the par value of the company's stock and $5\frac{1}{2}$ per cent on that value plus the premium account. It was said that this showing was as good as that of most gas companies in the state that confine their business to the sale and distribution of, gas.

The commission eliminated from operating expense a loss from the merchandising of appliances on the ground that this loss ought not to be borne by consumers but by stockholders. There were increases in new business salaries, new business supplies expense, and advertising, which the commission believed resulted mainly from increased activities in the sale of appliances. Similar increases in law expenses, general office expenses, and miscellaneous ex-

penses were attributed to increased activity in the sale of appliances. The commission, in fixing rates, assumed that two thirds of the total increases were due to these activities and should not be charged against the company's ratepayers. Interest payments during the year, a substantial part of which were the result of the company lending a part of its funds to another company without benefit to ratepayers, were also held not to be chargeable against ratepayers.

The commission also disapproved a part of a payment under a management contract on the ground that the services received by the company could have been performed directly by itself at a lower cost. *Customers v. Lowell Gas Light Co.* (D. P. U. 4915, 4916).



Ordinance Allowing Rate Deductions for Variation from Standards Held Void

THE city of Crawfordsville, Indiana, enacted an ordinance providing that a gas company should furnish gas having a monthly average total heating value of not less than 570 B.T.U. per cubic foot, and that at no time should the heating value be less than 540 B.T.U. or more than 600 B.T.U. It was further provided that users of gas should have the right to make deductions from bills and make payment to the company of the amount of such bills, less reduction, if gas should not be furnished with the heat units as prescribed in the ordinance.

The public service commission, on petition by the company, held that the ordinance was unreasonable and void. The city has jurisdiction, subject to appeal to the commission, to determine the quality and character of service fur-

nished by a public utility, but the commission has jurisdiction over rates. The commission said:

The commission finds that said city of Crawfordsville, in passing said ordinance, exceeded the authority and power reserved to it by said § 110, as amended, in that said ordinance provides for certain reductions to be made on bills rendered by the petitioner for service of gas to its customers in said city, and that by reason of such provisions said reductions as and when made will reduce the bills and charges of said utility for such service to an amount different from and below the amount that such utility is entitled to receive and charge for its services, as provided for by the rates and charges heretofore fixed by this commission for gas service in said city, and for that reason the commission finds that said ordinance is unlawful, unreasonable, and void.

Re Public Service Company of Indiana (No. 12095).



Commission Cannot Order Funds Impounded

THE Alabama commission denied a petition asking that it order a telephone company to hold in trust and to retain in Alabama 40 per cent of all

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sums collected for intrastate service until further orders of the commission. Such action was asked by the state and by the city of Birmingham, which had filed complaints against rates.

The commission, while assuming without deciding that the commission had authority under the statute to award reparation, ruled that this was not sufficient to warrant the conclusion that if a claim for reparation were made, the commission also had authority to make such an order impounding the funds of the company. It was said:

The authority we are here asked to exercise is in legal effect equivalent, in our opinion, to the equitable writ of injunction

and comes very close to being equivalent to the legal writ of attachment. Each of these writs, under our law, is regarded as extraordinary, and the exercise of the writs by the higher courts of the state is safeguarded, as a general rule, by making the issuance of the writ conditional upon the execution of a bond by him who seeks the writ, to respond in damages if the writ is wrongfully or unlawfully issued. We cannot believe that the legislature would have invested such authority in the commission without showing its intention in clear and unequivocal language, and without safeguarding the issuance of such an order in some such manner as it has done when comparable writs are issued by the courts.

Alabama v. Southern Bell Telephone & Telegraph Co. et al. (Dockets 6715, 6716).



Courts Can Order Service Connections

THE Oklahoma Corporation Commission does not, under the Constitution and laws of that state, have exclusive jurisdiction to compel a public service company to perform or render service such as is its plain duty under the law to perform or render, according to a recent decision by the state supreme court. On the contrary, district courts have jurisdiction to compel a public service corporation to perform or render such service.

The court, in making this ruling, recognized that the commission did have jurisdiction but this jurisdiction, it was

held, was not exclusive. It was said that the jurisdiction of the commission to prescribe rates, charges, and classifications of traffic, subject to review, is exclusive, since this jurisdiction involved the exercise of a legislative function.

On the other hand, in matters other than prescribing rates, charges, and classifications, courts have jurisdiction, at least concurrent with the commission, to compel the performance of a legal duty to furnish service. *Southwestern Natural Gas Co. v. Cherokee Public Service Co. (44 P. (2d) 945).*



Improper Deviation from Tariff

THE California commission has ordered an auto truck company to collect undercharges and refund overcharges where deviations were made from filed tariffs.

The company sought to justify its deviation from tariffs and asked to be excused on the ground that the violations occurred during an emergency created by water-front strike, were forced by competitive conditions as be-

tween various transbay carriers and through restrictions imposed by conference rules relating to the publication of the tariff changes, or by the failure of a tariff agent to file tariff changes with the commission. The commission held that such circumstances offered no justification for violating the published tariffs. *Re Kellogg Express & Draying Co. (Decision No. 27966, Case Nos. 3910, 3923, 3924).*